Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register.* If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety- (90-) day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

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

PROPOSED RULE

4 CSR 240-20.092 Definitions for Demand-Side Programs and Demand-Side Programs Investment Mechanisms

PURPOSE: This rule incorporates definitions for all terms used in 4 CSR 240-20.093 Demand-Side Programs Investment Mechanisms (DSIM) and 4 CSR 240-20.094 Demand-Side Programs.

(1) As used in 4 CSR 240-20.093 and 4 CSR 240-20.094, the following terms mean:

(A) Annual report means a report of information concerning a utility's demand-side programs having the content described in 4 CSR 240-20.093(8);

(B) Approved demand-side program means a demand-side program or demand-side program pilot which is approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs;

(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 demand-side programs' energy savings and demand savings associated with generation, transmission, and distribution facilities including avoided probable environmental compliance costs. The utility shall use the same methodology used in its most recently-adopted preferred resource plan to calculate its avoided costs;

(D) Baseline demand forecast means a reference forecast of summer or winter peak demand at the customer class level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(E) Baseline energy forecast means a reference forecast of energy at the customer class level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(F) Cost recovery amount means the amount approved by the commission in a utility's filing for demand-side program approval or a DSIM rate adjustment case to provide the utility with cost recovery of demand-side program costs based on the approved cost recovery component of a DSIM;

(G) Cost recovery component of a DSIM means the methodology approved by the commission in a utility's filing for demand-side program approval to allow the utility to receive recovery of costs of approved demand-side programs with interest;

(H) Customer class means major customer rate groupings such as residential, small general service, large general service, and large power service;

(I) Deemed savings means the measure-level annual energy savings and/or demand savings documented or calculated in the approved Technical Resource Manual or Technical Reference Manual (TRM), multiplied by the documented measure count. The demand-side program deemed savings is the sum of the deemed savings for all measures installed in a demand-side program. The demand-side portfolio deemed savings is the sum of all demand-side program deemed savings;

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

(K) Demand response means measures that decrease peak demand or shift demand to off-peak periods;

(L) Demand-side portfolio means all of a utility's demand-side programs at a defined point in time;

(M) 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 electric meter, including, but not limited to, energy efficiency measures, load management, demand response, interruptible or curtailable load, combined heat and power, and distributed generation;

(N) 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: cost recovery component of a DSIM, throughput disincentive component of a DSIM, and earning opportunity of a DSIM;

(O) Demand savings target means the annual demand savings level approved by the commission at the time of each demand-side portfolio's approval, or adjusted based on an approved mechanism.

Demand savings targets are the baseline for determining the utility's demand-side portfolio's demand savings performance levels for the earnings opportunity component of a DSIM;

(P) DSIM amount means the sum of the cost recovery amount, throughput disincentive amount, and earnings opportunity amount;

(Q) DSIM rate means the rate used to determine the charge on customers' bills for the portion of the DSIM amount assigned by the commission to a rate class;

(R) Earnings opportunity amount means the amount approved by the commission in a utility's filing for demand-side program approval or a rate adjustment case to provide the utility with an earnings opportunity amount based on the approved earnings opportunity component of a DSIM;

(S) Earnings opportunity component of a DSIM means the methodology approved by the commission in a utility's filing for demand-side program approval to allow the utility to receive an earnings opportunity. Any earnings opportunity component of a DSIM shall be implemented on a retrospective basis, and all energy and demand savings used to determine a DSIM earnings opportunity amount shall be verified and documented through EM&V reports;

(T) Economic potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from customer adoption of all cost-effective measures, regardless of customer preferences;

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

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

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

(X) Energy savings target means the annual energy savings level approved by the commission at the time of each demand-side portfolio's approval, or adjusted by an approved mechanism. Energy savings targets are the baseline for determining the utility's demand-side portfolio's energy savings performance levels for the earnings opportunity component of a DSIM;

(Y) 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 annual energy and demand savings, benefits, cost effectiveness, and other effects from demand-side programs;

(Z) Filing for demand-side programs approval means a utility's filing for approval, modification, or discontinuance of demand-side program(s) which may also include a simultaneous request for the establishment, modification, or discontinuance of a DSIM;

(AA) General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs or rates and charges of the electric utility are considered by the commission;

(BB) Interruptible or curtailable rate means a rate under which a customer receives a reduced charge in exchange for agreeing to allow the utility to withdraw the supply of electricity under certain specified conditions;

(CC) Market potential study means a quantitative analysis of the amount of energy and demand savings that may exist, is cost-effective, and could be realized through the implementation of energy efficiency programs and policies;

(DD) Market transformation means the strategic process of intervening in a market to create lasting change in market behavior by removing identified barriers or exploiting opportunities to accelerate the adoption of all cost-effective energy efficiency as a matter of standard practice;

(EE) Maximum achievable potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from expected program participation and ideal implementation conditions. Maximum achievable potential establishes a maximum target for demand-side savings that a utility can expect to achieve through its demand-side programs and involves incentives that represent a very high portion of total programs costs and very short customer payback periods. Maximum achievable potential is considered the hypothetical upper-boundary of achievable demand-side savings potential, because it presumes conditions that are ideal and not typically observed;

(FF) Measure means any device, technology, behavioral response mechanism, or operating procedure that makes it possible to deliver an adequate level and quality of energy service while—

1. Using less energy than would otherwise be required; or

2. Altering the time pattern of electricity so as to require less generating capacity or to allow the electric power to be supplied by more fuel-efficient units;

(GG) MEEIA means the Missouri Energy Efficiency Investment Act, Section 393.1075, RSMo;

(HH) Net shared benefits means the program benefits measured and documented through EM&V reports or a technical resource manual for demand-side programs, less the sum of the programs' costs including design, administration, delivery, end-use measures, incentive payments to customers, EM&V, utility market potential studies, and technical resource manual;

(II) Non Energy Benefits means—

1. Direct benefits to participants in utility demand side programs, including, but not limited to, increased property values, increased productivity, decreased water and sewer bills, reduced operations and maintenance costs, improved tenant satisfaction, and increases to the comfort, health, and safety of participants and their families;

2. Direct benefits to utilities, including, but not limited to, reduced arrearage carrying costs, reduced customer collection calls/notices, reduced termination/reconnection costs, and reduced bad debt write-offs; or

3. Indirect benefits to society at large, including, but not limited to, job creation, economic development, energy security, public safety, reduced emissions and emission related health care costs, and other environmental benefits;

4. Non Energy Benefits may be included in cost-effectiveness tests unless they cannot be calculated with a reasonable degree of confidence;

(JJ) Non-participant test (sometimes referred to as the ratepayer impact test or RIM test) is a measure of the difference between the change in total revenues paid to a utility and the change in total cost incurred by the utility as a result of the implementation of demand-side programs. The benefits are the avoided cost as a result of implementation. The costs consist of incentives paid to participants, other costs incurred by the utility, and the loss in revenue as a result of diminished consumption. Utility costs include the costs to administer, deliver, and evaluate each demand-side program;

(KK) Participant test means a test of the cost-effectiveness of demand-side programs that measures the economics of a demand-side program from the perspective of the customers participating in the program;

(LL) 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;

(MM) Probable environmental compliance cost means the likely, expected, or anticipated cost to the utility of complying with new or additional environmental legal mandates, taxes, or other requirements that, in the judgment of the utility's decision-makers, may be reasonably expected to be incurred by the utility and which would result in environmental compliance costs that could have a significant impact on utility rates. In estimating its avoided probable environmental compliance costs, the utility shall consider factors including, but not limited to, reductions in risks, liabilities, and other costs under the Clean Air Act, the Clean Water Act, the Endangered Species Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, Clean

Power Plan, and related federal and state laws and regulation;

(NN) Program pilot means a demand-side program designed to operate on a limited basis for evaluation purposes before full implementation;

(OO) Realistic achievable potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from expected program participation and realistic implementation conditions. Realistic achievable potential establishes a realistic target for demand-side savings that a utility can expect to achieve through its demand-side programs and involves incentives that represent a moderate portion of total program costs and longer customer payback periods when compared to those associated with maximum achievable potential;

(PP) Societal cost test means the total resource cost test with the addition of societal benefits (externalities such as, but not limited to, environmental or economic benefits) to the total benefits of the total resource cost test;

(QQ) Staff means all personnel employed by the commission, whether on a permanent or contract basis, except: commissioners; commissioner support staff, including technical advisory staff; personnel in the secretary's office; and personnel in the general counsel's office, including personnel in the adjudication department. Employees in the staff counsel's office are members of the commission's staff;

(RR) Statewide technical reference manual or statewide TRM means a document developed by the state-wide collaborative and approved by the commission that is used by all electric utilities to quantify energy savings and demand savings attributable to energy efficiency and demand response;

(SS) Technical potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from a theoretical construct that assumes all feasible measures are adopted by customers of the utility regardless of cost or customer preference;

(TT) Technical resource manual, technical reference manual or TRM means a document used to assess energy savings and demand savings attributable to energy efficiency and demand response programs within an electric utility's service territory;

(UU) Throughput disincentive means the electric utility's lost margin revenues that result from decreased retail sales volumes due to its demand-side programs;

(VV) Throughput disincentive amount means the amount approved by the commission in a utility's filing for demand-side program approval or a DSIM rate adjustment case to provide the utility with recovery of throughput disincentive based on the approved throughput disincentive component of a DSIM;

(WW) Throughput disincentive component of a DSIM means the methodology approved by the commission in a utility's filing for a demand-side program approval to allow the utility to receive recovery of throughput disincentive with interest;

(XX) Total resource cost test or TRC means a test that compares the sum of avoided costs to the sum of all incremental costs of end use measures that are implemented due to the program, as defined by the commission in rules. Benefits include the avoided costs, avoided probable environmental compliance costs, other avoided resource benefits (*e.g.,* oil, natural gas, water), and other benefits that accrue to Missourians, including non-energy benefits as defined by the commission. Costs include the sum of all incremental costs of enduse measures that are implemented due to the program (including both utility and participant contributions), plus utility costs to administer, deliver, and evaluate each demandside program. In estimating its avoided probable environmental compliance costs and non-energy benefits, the utility shall consider factors including, but not limited to: reductions in emissions liability under the Clean Air Act; reduction in transmission and distribution costs; reductions in the utility's load factor or peak load; reductions in fuel costs, health and safety improvements, etc; and

(YY) Utility cost test means a test that compares the sum of avoided utility costs to the sum of all utility costs.

AUTHORITY: section 393.1075.11, RSMo 2016. Original rule filed Dec. 27, 2016.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

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, Morris L. Woodruff, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before April 27, 2017, and should include reference to Commission Case No. EX-2016-0334. Comments may also be submitted via a filing using the commission's electronic filing and information system at http://www.psc.mo.gov/efis.asp. A public hearing regarding this proposed rule is scheduled for May 4, 2017, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., 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.

SPECIAL NEEDS: 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 or TDD Hotline 1-800-829-7541.

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

PROPOSED AMENDMENT

4 CSR 240-20.093 Demand-Side Programs Investment Mechanisms. The department is removing section (1), adding new sections (1) and (15), and amending sections (2)–(9) and (14).

PURPOSE: This amendment modifies the provisions related to applications to establish, continue, or modify demand-side programs, investment mechanisms, and rate design modifications.

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

(A) Annual demand savings target means the annual demand savings level approved by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A). Annual demand-side savings targets are the baseline for determining the utility's demand-side programs' annual demand savings performance levels in the methodology for the utility incentive component of a demand-side programs investment mechanism (DSIM);

(B) Annual energy savings target means the annual energy savings level approved by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A). Annual energy savings targets are the baseline for determining the utility's demand-side programs' annual energy savings performance levels in the methodology for the utility incentive component of a DSIM;

(C) Annual net shared benefits means the utility's avoided costs measured and documented through evaluation, measurement, and verification (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;

(D) Annual report means a report of information concerning a utility's demand-side programs having the content described in 4 CSR 240-3.163(5);

(E) Approved demand-side program means a demand-side program or demand-side program pilot which is approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs;

(F) 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 demand-side programs' energy savings and demand savings associated with generation, transmission, and distribution facilities including avoided probable environmental compliance costs. The utility shall use the same methodology used in its most recently-adopted preferred resource plan to calculate its avoided costs;

(G) Baseline demand forecast means a reference forecast of summer and winter demand at the class level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(H) Baseline energy forecast means a reference forecast of energy at the class level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(I) Cost recovery component of a DSIM means the methodology approved by the commission in a utility's filing for demand-side program approval to allow the utility to receive recovery of costs of approved demand-side programs with interest;

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

(K) Demand response means measures that decrease peak demand or shift demand to off-peak periods;

(L) 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;

(M) 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;

(N) DSIM cost recovery revenue requirement means the revenue requirement approved by the commission in a utility's filing for demand-side program approval or a semi-annual DSIM rate adjustment case to provide the utility with cost recovery of demand-side program costs based on the approved cost recovery component of a DSIM;

(O) DSIM rate means the charge on customers' bills for the portion of the DSIM revenue requirement assigned by the commission to a rate class;

(P) DSIM revenue requirement means the sum of the DSIM cost recovery revenue requirement, DSIM utility lost revenue requirement, and DSIM utility incentive revenue requirement;

(Q) DSIM utility incentive revenue requirement means the revenue requirement approved by the commission to provide the utility with a portion of annual net shared benefits based on the approved utility incentive component of a DSIM;

(R) DSIM utility lost revenue requirement means the revenue requirement explicitly approved (if any) by the commission to provide the utility with recovery of lost revenue based on the approved utility lost revenue component of a DSIM;

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

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

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

(V) 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;

(W) Filing for demand-side program approval means a utility's filing for approval, modification, or discontinuance of demand-side program(s) which may also include a simultaneous request for the establishment, modification, or discontinuance of a DSIM;

(X) General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs or rates and charges of the electric utility are considered by the commission;

(Y) 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 occurs when utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 cause a drop in net system retail kWh delivered to jurisdictional 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;

(Z) Probable environmental compliance 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's decision-makers, may be imposed at some point within the planning horizon which would result in environmental compliance costs that could have a significant impact on utility rates;

(AA) Program pilot means a demand-side program designed to operate on a limited basis for evaluation purposes before full implementation;

(BB) Staff means all personnel employed by the commission, whether on a permanent or contract basis, except: commissioners; commissioner support staff, including technical advisory staff; personnel in the secretary's office; and personnel in the general counsel's office, including personnel in the adjudication department. Employees in the staff counsel's office are members of the commission's staff;

(CC) Statewide technical resource manual means a document that is used by electric utilities to assess energy savings and demand savings attributable to energy efficiency

and demand response;

(DD) Total resource cost test, or TRC, means the test of the cost-effectiveness of demand-side programs that compares the avoided utility costs 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;

(EE) Utility incentive component of a DSIM means the methodology approved by the commission in a utility's filing for demand-side program approval to allow the utility to receive a portion of annual net shared benefits achieved and documented through EM&V reports;

(FF) Utility lost revenue component of a DSIM means the methodology approved by the commission in a utility's filing for demand-side program approval to allow the utility to receive recovery of lost revenue; and

(GG) Utility market potential study means an evaluation and report by an independent third party of the energy savings and demand savings available in a utility's service territory broken down by customer class and major end-uses within each customer class.]

(1) The definitions of terms used in this section can be found in 4 CSR 240-20.092 Definitions for Demand-Side Programs and Demand-Side Program Investment Mechanisms.

(2) Applications to establish, continue, or modify a **Demand-Side Program Investment Mechanism** (DSIM). 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 to establish, continue, or modify a DSIM in a utility's filing for demand-side program approval.

(A) *[The electric utility shall meet the filing requirements in 4 CSR 240-3.163(2) in conjunction with an application to establish a DSIM and 4 CSR 240-3.163(3) in conjunction with an application to continue or modify a DSIM.]* **An application to establish a DSIM shall include 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.**

1. 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 customers' bills;

2. An example customer bill showing how the proposed DSIM shall be separately identified on affected customers' bills;

3. A complete description and explanation of the design, rationale, and intended operation of the proposed DSIM;

4. Estimates of the effect of the DSIM and all other impacts of the demand-side program spending, in aggregate, on customer rates and average bills for each of the next five (5) years, and as a net present value over the lifetime of the demand-side program impacts, for each rate class;

5. Estimates of the effect of the earnings opportunity component of DSIM on earnings and key credit metrics for each of the next three (3) years including the level of earnings and key credit metrics expected to occur for each of the next three (3) years with and without the earnings opportunity component of DSIM;

6. 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;

7. A complete explanation of any change in business risk to the electric utility resulting from implementation of an earnings opportunity component of a 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;

8. A proposal for how the commission can determine if any earning opportunity component of a DSIM is aligned with helping customers use energy more efficiently;

9. If the utility proposes to adjust its DSIM rates between general rate proceedings, proposed DSIM rate adjustment clause tariff sheets;

10. If the utility proposes to adjust the DSIM amount between general rate proceedings, a complete explanation of how the DSIM rates shall be established and how they will be adjusted for any over- and/or under-recovery amounts, as well as the impact on the DSIM amount as a result of approved new, modified, or discontinued demand-side programs.

(B) If an electric utility files to modify its approved DSIM, the electric utility shall file with the commission and serve upon parties, as provided in section (14) below, the following supporting information as part of, or in addition to, direct testimony. Supporting workpapers shall be submitted with all models and spreadsheets provided as executable versions in native format with all formulas intact;

1. Information as required by subsection (2)(A), above;

2. Explanation of any proposed modification to the DSIM and why the proposed modification is being requested;

3. A complete explanation of any change in business risk to the electric utility resulting from modification of an earnings opportunity component of a 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

4. Any additional information the commission orders to be provided.

*[(B)]***(C)** Any party to the application for a utility's filing for demand-side program approval may support or oppose the establishment, continuation, or modification of a DSIM and/or may propose an alternative DSIM for the commission's consideration including, but not limited to, modifications to any electric utility's proposed DSIM. Both the utility and the commission retain the authority to approve, accept, or reject any proposed establishment, continuation, or modification of a DSIM or any proposed alternative DSIM.

*[(C)]***(D)** The commission shall approve the establishment, continuation, or modification of a DSIM and associated tariff sheets if it finds the electric utility's approved demand-side programs are expected to result in energy and demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers and will assist the commission's efforts to implement state policy contained in section 393.1075, RSMo, to—

1. Provide the electric utility with timely recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs;

2. Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and

3. Provide timely earnings opportunities associated with cost-effective measurable and/or verifiable energy and demand savings;

*[(D)]***(E)** In addition to any other changes in business risk experienced by the electric utility, the commission shall consider changes in the utility's business risk resulting from establishment, continuation, or modification of the DSIM in setting the electric utility's allowed return on equity in general rate proceedings.

*[(E)]***(F)** In determining to approve, modify, or continue a DSIM, the commission may consider, but is not limited to only considering, the expected magnitude of the impact of the utility's approved demand-side programs on the utility's costs, revenues, and earnings, the ability of the utility to manage all aspects of the approved demand-side programs, the ability to measure and verify the approved **demand-side** programs'*[s]* impacts, any interaction among the various components of the DSIM that the utility may propose,

and the incentives or disincentives provided to the utility as a result of the inclusion or exclusion of *[cost recovery component, utility lost revenue component, and/or utility incentive component in the]* DSIM **components as defined in 4 CSR 240-20.092(N)**. In this context the word "disincentives" means any barrier to the implementation of a DSIM. There is no penalty authorized in this section.

*[(F)]***(G)** Any cost recovery component of a DSIM shall be based on costs of demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs. Indirect costs associated with demand-side programs, including but not limited to**,** costs of utility market potential study**, evaluation, measurement, and verification (EM&V),** and/or utility's portion of statewide technical *[resource]* **reference** manual, shall be allocated to demand-side programs and thus shall be eligible for recovery through an approved DSIM. The commission shall approve any cost recovery component of a DSIM simultaneously with the programs approved in accordance with 4 CSR 240-20.094 Demand-Side Programs.

[(G) Any utility lost revenue component of DSIM shall be based on energy or 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.

1. A utility cannot recover revenues lost due to utility demand-side programs unless it does not recover the fixed cost as set in the last general rate case, i.e., actual annual billed system kWh is less than the system kWh used to calculate rates to recover revenues as ordered by the commission in the utility's last general rate case.

2. The commission shall order any utility lost revenue component of a DSIM simultaneously with the programs approved in accordance with 4 CSR 240-20.094 Demand-Side Programs.

3. In a utility's filing for demand-side program approval in which a utility lost revenue component of a DSIM is considered, there is no requirement for any implicit or explicit utility lost revenue component of a DSIM or for a particular form of a lost revenue component of a DSIM.

4. The commission may address lost revenues solely or in part, directly or indirectly, with a performance incentive mechanism through a utility incentive component of DSIM.

5. Any explicit utility lost revenue component of a DSIM shall be implemented on a retrospective basis and all energy and demand savings to determine a DSIM utility lost revenue requirement must be measured and verified through EM&V prior to recovery.]

(H) Any throughput disincentive component of DSIM shall be based on energy or demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and will be determined as a result of energy savings determined through EM&V.

1. The commission shall order any throughput disincentive component of a DSIM simultaneously with the demand-side programs approved in accordance with 4 CSR 240-20.094 Demand-Side Portfolio.

2. In a utility's filing in which a throughput disincentive component of a DSIM is considered, there is no requirement for any implicit or explicit utility throughput disincentive component of a DSIM or for a particular form of a throughput disincentive component of a DSIM.

3. Any explicit throughput disincentive component of a DSIM shall be implemented on a prospective basis.

*[(H)]***(I)** Any *[utility incentive]* **earnings opportunity** component of a DSIM shall be based on the performance of demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and shall include a methodology for determining the utility's *[portion of annual net shared benefits achieved and documented through EM&V reports for approved demand-side programs. Each utility incentive component of a DSIM shall define the relationship between the utility's portion of annual net shared benefits achieved and documented through EM&V reports, annual energy savings achieved and documented through EM&V reports as a percentage of annual energy savings targets, and demand savings achieved and documented through EM&V reports as a percentage of annual demand savings targets.]* **earnings opportunity amount for individual demand-side programs based upon program performance relative to commission-approved performance metrics for each demand-side program.**

1. *[Annual]* Energy and demand savings targets approved by the commission for use in the *[utility incentive]* **earnings opportunity** component of a DSIM are not necessarily the same as the incremental *[annual]* energy and demand savings goals and cumulative *[annual]* energy and demand savings goals specified in *[4 CSR 240-20.094]* **section** (2).

2. The commission shall order any *[utility incentive]* **earnings opportunity** component of a DSIM simultaneously with the **demand-side** programs approved in accordance with 4 CSR 240-20.094 Demand-Side Programs.

3. Any *[utility incentive]* **earnings opportunity** component of a DSIM shall be implemented on a retrospective basis and all energy and demand savings used to determine a DSIM *[utility incentive revenue requirement]* **earnings opportunity amount** must be measured and verified through EM&V.

*[(I)]***(J)** If the DSIM proposed by the utility includes adjustments to DSIM rates between general rate proceedings, the DSIM shall include a provision to adjust the DSIM rates *[every six (6) months]* **not less than annually** to include a true-up for over- and under-*[collection]***recovery** of the DSIM *[revenue requirement]* **amount** as well as the impact on the DSIM cost recovery *[revenue requirement]* **amount** as a result of approved new, modified, or deleted demand-side programs.

*[(J)]***(K)** If the commission approves *[utility incentive]* **an earnings opportunity** component of a DSIM, such *[utility incentive]* **earnings opportunity** component shall be binding on the commission for the entire term of the DSIM, and such DSIM shall be binding on the electric utility for the entire term of the DSIM, unless otherwise ordered or conditioned by the commission when approved.

*[(K)]***(L)** The commission shall apportion the DSIM *[revenue requirement]* **amount** to each customer class.

(3) Application for Discontinuation of a DSIM. The commission shall allow or require a DSIM to be discontinued or any component of a DSIM to be discontinued only after providing the opportunity for a hearing.

(A) **When submitting an application to discontinue a DSIM,** *[T]***t**he electric utility shall *[meet the filing requirements in 4 CSR 240-3.163(4).]* **file with the commission and serve on parties as provided in section (14), the following supporting information as part of, or in addition to, direct testimony. Supporting workpapers shall be submitted with all models and spreadsheets provided as executable versions in native format with all formulas intact:**

1. An example of the notice to be provided to customers;

2. If the utility's DSIM allows adjustments of the DSIM rates between general rate proceedings, a complete explanation of how the over-/under-recovery of the DSIM amount that the electric utility is proposing to discontinue shall be handled;

3. 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, throughput disincentive, and/or to receive an earnings opportunity;

4. A complete explanation of any change in business risk to the electric utility resulting from discontinuation of an earnings opportunity 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

5. Any additional information the commission orders to be provided.

(4) Requirements for *[Semi-Annual]* Adjustments of DSIM Rates*[, if the Commission Approves Adjustments of DSIM Rates]* Between General Rate Proceedings. *[Semi-Annual a]***A**djustments to DSIM rates between general rate proceedings shall *[only]* **occur not less than annually, and may** include adjustments to the DSIM cost recovery *[revenue requirement and shall not include any adjustment to the DSIM utility lost revenue requirement]* **amount, the DSIM throughput disincentive amount, and**/or the DSIM *[utility incentive revenue requirement]* **earnings opportunity amount**. *[Adjustments to the DSIM cost recovery revenue requirement may reflect new and approved demand-side programs, approved program modifications, and/or approved program discontinuations.]*

(A) The electric utility shall file tariff sheets to adjust its DSIM rates 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.

1. Amount of revenue that it has over-/under-recovered through the most recent recovery period by rate class.

2. Proposed adjustments or refunds by rate class.

3. Electric utility's short-term borrowing rate.

4. Proposed adjustments to the current DSIM rates.

5. Complete documentation for the proposed adjustments to the current DSIM rates.

6. Any additional information the commission ordered to be provided.

(B) *[When an electric utility files tariff sheets to adjust its DSIM rates between general rate proceedings, t]***T**he staff shall examine and analyze the information filed by the electric utility *[in accordance with 4 CSR 240-3.163(8)]* and additional information obtained through discovery, if any, to determine if the proposed adjustments to the DSIM *[cost recovery revenue requirement]* **amount** and DSIM rates are in accordance with the provisions of this rule, section 393.1075, RSMo, and the DSIM established, modified, or continued in the most recent filing for demand-side program approval. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff sheets to adjust its DSIM rates. If the adjustments to the *[DSIM cost recovery revenue requirement and]* DSIM rates are in accordance with the provisions of this rule, section 393.1075, RSMo, and the DSIM established, modified, or continued in the most recent filing for demand-side program approval, the commission shall issue an interim rate adjustment order approving the tariff sheets and the adjustments to the DSIM rates shall take effect sixty (60) days after the tariff sheets were filed. If the adjustments to the *[DSIM cost recovery revenue requirement and]* DSIM rates are not in accordance with the provisions of this rule, section 393.1075, RSMo, or the DSIM established, modified, or continued in the most recent filing for demand-side program approval, the commission shall reject the proposed tariff sheets within sixty (60) days of the electric utility's filing and may instead order the filing of interim tariff sheets that implement its decision and approval.

*[(A)]***(C)** An electric utility with a DSIM shall file to adjust its DSIM rates *[once every six (6) months]* **no less often than annually**.

*[(B)]***(D)** *[The semi-annual a]***A**djustments to the DSIM rates shall reflect a comprehensive measurement of both increases and decreases to the DSIM *[cost recovery revenue requirement]* **amount** established in the most recent demand-side program approval or *[semi-annual]* DSIM rate adjustment case plus the change in DSIM *[cost recovery revenue requirement]* **amount** which occurred since the most recent demand-side program approval or *[semi-annual]* DSIM rate adjustment case. **All DSIM rate adjustments shall include a true-up of past DSIM collections based on the latest EM&V results where applicable. Any over-/under-recovered amounts will be accounted for in the going forward DSIM rates.**

*[(C)]***(E)** The electric utility shall be current on its submission of its Surveillance Monitoring Reports as required in section (9) and its annual reports as required in section (8) in order to increase the DSIM rates.

*[(D)]***(F)** If the staff, public counsel, or other party receives information which has not been submitted in compliance with *[4 CSR 240-3.163(8)]* **subsection (4)(A)**, it shall notify the electric utility within ten (10) days of the electric utility's filing of an application or tariff sheets to adjust DSIM rates and identify the information required. The electric utility shall submit the information identified by the party, or shall notify the party that it believes the information submitted was in compliance with the requirements of *[4 CSR 240-3.163(8)]* **subsection (4)(A)**, within ten (10) days of the request. A party who notifies the electric utility it believes the electric utility has not submitted all the information required by *[4 CSR 240-3.163(8)]* **subsection (4)(A)** and as ordered by the commission in a previous proceeding and receives notice from the electric utility that the electric utility believes it has submitted all required information may file a motion with the commission for an order directing the electric utility to produce that information, i.e., a motion to compel. While the commission is considering the motion to compel, the processing timeline for the adjustment to increase DSIM rates shall be suspended. If the commission then issues an order requiring the information be submitted, the time necessary for the information to be submitted shall further extend the processing timeline for the adjustment to increase DSIM rates. For good cause shown, the commission may further suspend this timeline. Any delay in submitting sufficient information in compliance with *[4 CSR 240-3.163(8)]* **subsection (4)(A)** or a commission order in a previous proceeding in a request to decrease DSIM rates shall not alter the processing timeline.

(5) Implementation of DSIM. Once a DSIM is approved, modified, or discontinued by the commission, the utility may request deferral accounting using the utility's latest approved weighted average cost of capital until the utility's next general rate proceeding. At the time of filing the general rate proceeding subsequent to DSIM approval, modification, or discontinuance, the commission shall use an interim rate adjustment order to implement the approved, modified, or discontinued DSIM.

(A) Duration of DSIM. Once a DSIM is approved by the commission, it shall remain in effect *[for a term of not more than four (4) years unless the commission earlier authorizes]* **to allow full recovery of all DSIM amounts or for the term otherwise ordered by the commission. The commission may authorize** the modification or discontinuance of the DSIM *[although an]*, **or change the duration previously approved. The** electric utility shall submit proposed tariff sheets to implement interim *[semi-annual]* adjustments to its DSIM rates between general rate proceedings. **During the term of an approved DSIM, any party to the application for a utility's filing for demand-side program approval may propose modifications to the DSIM. The utility may apply to modify the DSIM per section (2).**

[(B) If the utility has an implemented DSIM, the electric utility shall file a general rate proceeding within four (4) years after the effective date of the commission order implementing the DSIM, assuming the maximum statutory suspension of the rates so filed.]

(6) Disclosure *[on Customer's Bills]*. Regardless of whether or not the utility requests adjustments of its DSIM rates between general rate proceedings, any amounts charged under a DSIM approved by the commission, including any *[utility incentives]* **earnings opportunity** allowed by the commission, shall be separately disclosed on each customer's bill. Proposed language regarding this disclosure

shall be submitted to and approved by the commission before it appears on customers' bills. **The disclosure shall also appear on the utility's websites.**

(7) Evaluation, Measurement, and Verification (EM&V) of the Process and Impact of Demand-Side Programs. Each electric utility shall hire an independent contractor to perform and report EM&V of each commission-approved demand-side program in accordance with 4 CSR 240-20.094 Demand-Side Programs. The commission shall hire an independent contractor to audit and report on the work of each utility's independent EM&V contractor. **The commission staff shall provide oversight and guidance to the independent commission contractor, but shall not influence the independent contractor's audit(s). Staff counsel shall provide legal representation to the independent contractor in the event the independent contractor is required to testify before the commission.**

(D) EM&V final reports from the utility's contractor of each approved demand-side program shall—

1. Document, include analysis, and present any applicable recommendations for at least the following. 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—

(I) The lifetime and annual gross and net demand savings and energy savings achieved under each demand-side program, and the techniques used to estimate annual demand savings and energy savings;

(II) For demand-side programs subject to cost-effectiveness tests, include total resource cost test, societal cost test, utility cost test, participant cost test, and nonparticipant cost test of each demand-side program; and

(III) Determine the benefits achieved for each demand-side program and portfolio using the Utility Cost Test (UCT) methodology;

*[1.]***2.** Be completed by the EM&V contractor on a schedule approved by the commission at the time of demand-side program approval in accordance with 4 CSR 240-20.094(3); and

*[2.]***3.** Be filed with the commission **in the case in which the utility's demand-side program approval was received** and delivered simultaneously to the utility and the parties of the case in which the demand-side program was approved.

(E) Electric utility's EM&V contractors shall *[use, if available, a commission-approved statewide technical resource manual when performing EM&V work.]*—

1. Include specific methodology for performing EM&V work; and

2. All applications to establish, continue or modify a DSIM filed after a statewide technical reference manual is approved by the commission shall require EM&V contractors to use the most current statewide technical reference manual. Applications approved before the statewide technical reference manual is approved shall utilize the methodology approved with the application.

(8) Demand-Side Program Annual Report. Each electric utility with one (1) or more approved demand-side programs shall file an annual report by no later than *[sixty (60)]* **ninety (90)** days after the end of each *[calendar]* **program** year, *[in the form and having the content provided for by 4 CSR 240-3.163(5)]* and serve a copy on each party to the case in which the **demand-side** programs were last established, modified, or continued. Interested parties may file comments with the commission concerning the content of the utility's annual report within *[sixty (60)]* **ninety (90)** days of its filing. **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) An affidavit attesting to the veracity of the information; and

(B) 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 demand-side program was approved;

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

5. A comparison of actual and budgeted demand-side program costs, including an explanation of any increase or decrease of more than twenty percent (20%) in the cost of a demand-side 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 demand-side program was approved;

8. The estimated net economic benefits and net shared benefits of the demand-side portfolio;

9. For each demand-side program where one (1) 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. As part of its annual report, the electric utility shall file or provide a reference to the commission case that contains 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.

(9) Submission of Surveillance Monitoring Reports. Each electric utility with an approved DSIM shall submit to staff, public counsel, and parties approved by the commission a Surveillance Monitoring Report *[in the form and having the content provided for by 4 CSR 240-3.163(6)]*. **Each electric utility with a DSIM shall submit as page 6 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. The report shall be submitted to the staff, public counsel, and parties approved by the commission**.

(C) Upon a finding that a utility has knowingly or recklessly provided materially false or inaccurate information to the commission regarding the surveillance data prescribed in *[4 CSR 240-3.163(6)]* **section (9)**, after notice and an opportunity for a hearing, the commission may suspend a DSIM or order other appropriate remedies as provided by law.

(14) *[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.]* **Party status and providing to other parties affidavits, testimony, information, reports, and workpapers in related proceedings subsequent to the utility's filing for demand-side program approval, modification, or continuation of a DSIM.**

(A) A person or entity granted intervention in a utility's filing for demand-side program approval in which a DSIM is approved by the commission shall have the right to 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 utility's filing for demand-side program approval, 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 utility's filing for demand-side program approval 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 utility's filing for demand-side program approval 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 utility's filing for demand-side program approval 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 utility's filing for demand-side program approval to modify, continue, or discontinue the same DSIM.

(15) Missouri Energy Efficiency Investment Act (MEEIA) Rate Design Modifications.

(A) An electric utility may request modification of its rate design for demand-side cost recovery by filing tariff schedule(s) with the commission as part of —

1. An application for approval of demand-side programs or a demand-side program plan and a DSIM; or

2. A general rate case proceeding.

(B) Any request for modification of a rate design shall include with the filing supporting documentation for the request, including but not limited to, workpapers, data, computer model documentation, analysis, and other supporting information to support and explain the modification of the rate design. All information shall be labeled and all spreadsheets shall have all formulas intact.

(C) 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.

AUTHORITY: section 393.1075.11, RSMo [Supp. 2010] ***2016****. Original rule filed Oct. 4, 2010, effective May 30, 2011. Amended: Filed Dec. 27, 2016.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before April 27, 2017, and should include reference to Commission Case No. EX-2016-0334. Comments may also be submitted via a filing using the commission's electronic filing and information system at http://www.psc.mo.gov/efis.asp. A public hearing regarding this proposed amendment is scheduled for May 4, 2017, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., 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 amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: 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 or TDD Hotline 1-800-829-7541.

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

PROPOSED AMENDMENT

4 CSR 240-20.094 Demand-Side Programs. The department is deleting sections (1) and (10), adding new sections (1), (3), and (10), amending sections (2)–(9), and renumbering as is necessary.

PURPOSE: This amendment modifies the terms and conditions related to demand-side programs, potential studies, and customer opt-outs.

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

(A) Annual demand savings target means the annual demand savings level approved by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A). Annual demand-side savings targets are the baseline for determining the utility's demand-side programs' annual demand savings performance levels in the methodology for the utility incentive component of a demand-side programs investment mechanism (DSIM);

(B) Annual energy savings target means the annual energy savings level approved by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A). Annual energy savings targets are the baseline for determining the utility's demand-side programs' annual energy savings performance levels in the methodology for the utility incentive component of a DSIM;

(C) Annual net shared benefits means the utility's avoided costs measured and documented through evaluation, measurement, and verification (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;

(D) 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 demand-side programs' energy savings and demand savings associated with generation, transmission, and distribution facilities including avoided probable environmental compliance costs. The utility shall use the same methodology used in its most recently-adopted preferred resource plan to calculate its avoided costs;

(E) Baseline demand forecast means a reference forecast of annual summer and winter peak demand at the class level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(F) Baseline energy forecast means a reference forecast of annual energy at the class level in the absence of any new

demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(G) Customer class means major customer rate groupings such as residential, small general service, large general service, and large power service;

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

(I) 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;

(J) 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;

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

(L) DSIM cost recovery revenue requirement means the revenue requirement approved by the commission in a utility's filing for demand-side program approval or a semi-annual DSIM rate adjustment case to provide the utility with cost recovery of demand-side program costs based on the approved cost recovery component of a DSIM;

(M) DSIM utility incentive revenue requirement means the revenue requirement approved by the commission to provide the utility with a portion of annual net shared benefits based on the approved utility incentive component of a DSIM;

(N) DSIM utility lost revenue requirement means the revenue requirement explicitly approved (if any) by the commission to provide the utility with recovery of lost revenue based on the approved utility lost revenue component of a DSIM;

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

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

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

(R) 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;

(S) Filing for demand-side program approval means a utility's filing for approval, modification, or discontinuance of demand-side program(s) which may also include a simultaneous request for the establishment, modification, or discontinuance of a DSIM;

(T) Interruptible or curtailable rate means a rate under which a customer receives a reduced charge in exchange for agreeing to allow the utility to withdraw the supply of electricity under certain specified conditions;

(U) 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 occurs when utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 cause a drop in net system retail kWh delivered to jurisdictional 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;

(V) 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;

(W) Probable environmental compliance 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's decision-makers, may be imposed at some point within the planning horizon which would result in environmental compliance costs that could have a significant impact on utility rates;

(X) Staff means all personnel employed by the commission, whether on a permanent or contract basis, except: commissioners; commissioner support staff, including technical advisory staff; personnel in the secretary's office; and personnel in the general counsel's office, including personnel in the adjudication department. Employees in the staff counsel's office are members of the commission's staff;

(Y) Total resource cost test, or TRC, means the test of the cost-effectiveness of demand-side programs that compares the avoided utility costs 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; and

(Z) Utility incentive component of a DSIM means the methodology approved by the commission in a utility's demand-side program approval proceeding to allow the utility to receive a portion of annual net shared benefits achieved and documented through EM&V reports.]

(1) The definitions of terms used in this section can be found in 4 CSR 240-20.092 Definitions for Demand-Side Programs and Demand-Side Program Investment Mechanisms.

(2) Guideline to Review Progress Toward an Expectation that the Electric Utility's Demand-Side Programs Can Achieve a Goal of All Cost-Effective Demand-Side Savings. The goals established in this section are not mandatory and no penalty or adverse consequence will accrue to a utility that is unable to achieve the listed annual energy and demand savings goals.

(A) The commission shall use the greater of the annual realistic **amount of** achievable energy savings and demand savings as determined through *[the utility's]* **a** market potential study or the following incremental annual demand-side savings goals as a guideline to review progress toward an expectation that the electric utility's demand-side programs can achieve a goal of all cost-effective demand-side savings:

1. For *[2012]* **the utility's approved first program year**: three-tenths percent (0.3%) of total annual energy and one percent (1.0%) of annual peak demand;

2. For *[2013]* **the utility's approved second program year**: five-tenths percent (0.5%) of total annual energy and one percent (1.0%) of annual peak demand;

3. For *[2014]* **the utility's approved third program year**: seven-tenths percent (0.7%) of total annual energy and one percent (1.0%) of annual peak demand;

4. For *[2015]* **the utility's approved fourth program year**: nine-tenths percent (0.9%) of total annual energy and one percent (1.0%) of annual peak demand;

5. For *[2016]* **the utility's approved fifth program year**: one-and-one-tenth percent (1.1%) of total annual energy and one percent (1.0%) of annual peak demand;

6. For *[2017]* **the utility's approved sixth program year**: one-and-three-tenths percent (1.3%) of total annual energy and one percent (1.0%) of annual peak demand;

7. For *[2018]* **the utility's approved seventh program year**: one-and-five-tenths percent (1.5%) of total annual energy and one percent (1.0%) of annual peak demand;

8. For *[2019]* **the utility's approved eighth program year**: one-and-seven-tenths percent (1.7%) of total annual energy and one percent (1.0%) of annual peak demand; and

9. For *[2020]* **the utility's approved ninth** and subsequent **program** years, unless additional energy savings and demand savings goals are established by the commission: one-and-nine-tenths percent (1.9%) of total annual energy and one percent (1.0%) of annual peak demand each year.

(B) The commission shall also use the greater of the cumulative realistic *[achievable]* **amount of** energy savings and demand savings *[as]* **that is** determined **to be cost-effectively achievable** through *[the utility's]* **a** market potential study or the following cumulative demand-side savings goals as a guideline to review progress toward an expectation that the electric utility's demand-side programs can achieve a goal of all cost-effective demand-side savings:

1. For *[2012]* **the utility's approved first program year**: three-tenths percent (0.3%) of total annual energy and one percent (1.0%) of annual peak demand;

2. For *[2013]* **the utility's approved second program year**: eight-tenths percent (0.8%) of total annual energy and two percent (2.0%) of annual peak demand;

3. For *[2014]* **the utility's approved third program year**: one-and-five-tenths percent (1.5%) of total annual energy and three percent (3.0%) of annual peak demand;

4. For *[2015]* **the utility's approved fourth program year**: two-and-four-tenths percent (2.4%) of total annual energy and four percent (4.0%) of annual peak demand;

5. For *[2016]* **the utility's approved fifth program year**: three-and-five-tenths percent (3.5%) of total annual energy and five percent (5.0%) of annual peak demand;

6. For *[2017]* **the utility's approved sixth program year**: four-and-eight-tenths percent (4.8%) of total annual energy and six percent (6.0%) of annual peak demand;

7. For *[2018]* **the utility's approved seventh program year**: six-and-three-tenths percent (6.3%) of total annual energy and seven percent (7.0%) of annual peak demand;

8. For *[2019]* **the utility's approved eighth program year**: eight percent (8.0%) of total annual energy and eight percent (8.0%) of annual peak demand; and

9. For *[2020]* **the utility's approved ninth year** and subsequent **program** years, unless additional energy savings and demand savings goals are established by the commission: nine-and-nine-tenths percent (9.9%) of total annual energy and nine percent (9.0%) of annual peak demand for 2020, and then increasing by one-and-nine-tenths percent (1.9%) of total annual energy and by one percent (1.0%) of annual peak demand each year *[after 2020]* **thereafter**.

(3) Utility Market Potential Studies.

(A) The market potential study shall—

1. Consider both primary data and secondary data and analysis for the utility's service territory;

2. Be updated with primary data and analysis no less frequently than every four (4) years. To the extent that primary data for each utility service territory is unavailable or insufficient, the market potential study may also rely on or be supplemented by data from secondary sources and relevant data from other geographic regions;

3. Be prepared by an independent third party; and

4. Include an estimate of the achievable potential, regardless of cost-effectiveness, of energy savings from low-income demand-side programs. Energy savings from multifamily buildings that house low-income households may count toward this target.

(B) The utility shall provide an opportunity for commission staff and stakeholder review and input in the planning stages of the potential study including review of assumptions, methodology in advance of the performance of the study.

*[(3)]***(4)** 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 *[program plans by filing information and documentation required by 4 CSR 240-3.164(2)]* **portfolio**.

(A) Prior to filing for demand-side programs approval, the electric utility shall hold a stakeholder advisory meeting to receive input on the major components of its filing.

(B) As part of its application for approval of demand-side programs, the electric utility shall file or provide a reference to the commission case that contains any of the following information. All models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

1. A current market potential study. If the market potential study of the electric utility that is filing for approval of demand-side programs or a demand-side portfolio, the sampling methodology shall reflect each utility's service territory and shall provide statistically significant results for that utility:

A. Complete documentation of all assumptions, definitions, methodologies, sampling techniques, and other aspects of the current market potential study;

B. Clear description of the process used to identify the broadest possible list of measures and groups of measures for consideration;

2. Clear description of the process and assumptions used to determine technical potential, economic potential, maximum achievable potential, and realistic achievable potential for a twenty- (20-) year planning horizon for major end-use groups (e.g., lighting, space heating, space cooling, refrigeration, motor drives, etc.) for each customer class; and

3. Identification and discussion of the twenty- (20-) year baseline energy and demand forecasts. If the baseline energy and demand forecasts in the current market potential study differ from the baseline forecasts in the utility's most recent 4 CSR 240-22 triennial compliance filing, the current market potential study shall provide a comparison of the two (2) sets of forecasts and a discussion of the reasons for any differences between the two (2) sets of forecasts. The twenty- (20-) year baseline energy and demand forecasts shall account for the following:

A. Discussion of the treatment of all of the utility's customers who have opted out;

B. Future changes in building codes and/or appliance efficiency standards;

C. Changes in customer combined heat and power applications;

D. Third party and other naturally occurring demand-side savings; and

E. The increasing efficiency of advanced technologies.

(C) Demonstration of cost-effectiveness for each demand-side program and for the total of all demand-side programs of the utility. At a minimum, the electric utility shall include:

1. The total resource cost (TRC) test and a detailed description of the utility's avoided cost calculations and all assumptions used in the calculation;

2. The utility shall also include calculations for the utility cost test, the participant test, the non-participant test, and the

societal cost test; and

3. The impacts on annual revenue requirements and net present value of annual revenue requirements as a result of the integration analysis in accordance with 4 CSR 240-22.060 over the twenty- (20-) year planning horizon.

(D) Detailed description of each proposed demand-side program to include at least:

1. Customers targeted;

2. Measures and services included;

3. Customer incentives;

4. Proposed promotional techniques;

5. Specification of whether the demand-side program will be administered by the utility or a contractor;

6. Projected gross and net annual energy savings;

7. Proposed annual energy savings targets and cumulative energy savings targets;

8. Projected gross and net annual demand savings;

9. Proposed annual demand savings targets and cumulative demand savings targets;

10. Net-to-gross factors;

11. Size of the potential market and projected penetration rates;

12. Any market transformation elements included in the demand-side program and an Evaluation, measurement, and verification (EM&V) plan for estimating, measuring, and verifying the energy and capacity savings that the market transformation efforts are expected to achieve;

13. EM&V plan including at least the proposed evaluation schedule and the proposed approach to achieving the evaluation goals pursuant to 4 CSR 240-20.093(7);

14. Budget information in the following categories:

A. Administrative costs listed separately for the utility and/or program administrator;

B. Demand-side program incentive costs;

C. Estimated equipment and installation costs, including any customer contributions;

D. EM&V costs; and

E. Miscellaneous itemized costs, some of which may be an allocation of total costs for overhead items such as the market potential study or the statewide technical reference manual;

15. Description of all strategies used to minimize free riders;

16. Description of all strategies used to maximize spillover; and

17. For demand-side program plans, the proposed implementation schedule of individual demand-side programs.

(E) Demonstration and explanation in quantitative and qualitative terms of how the utility's demand-side programs are expected to make progress towards a goal of achieving all cost-effective demand-side savings over the life of the demand-side programs. Should the expected demand-side savings fall short of the incremental annual demand-side savings goals and/or the cumulative demand-side savings goals in section (2), the utility shall provide detailed explanation of why the incremental annual demand-side savings goals and/or the cumulative demand-side savings goals cannot be expected to be achieved, and the utility shall bear the burden of proof.

(F) Identification of demand-side programs which are supported by the electric utility and at least one (1) other electric or gas utility (joint demand-side programs).

(G) Designation of Program Pilots. For demand-side programs designed to operate on a limited basis for evaluation purposes before full implementation (program pilot), the utility shall provide as much of the information required under subsections (2)(C) through (E) of this rule as is practical and shall include explicit questions that the program pilot will address, the means and methods by which the utility proposes to address the questions the program pilot is designed to address, a provisional cost-effectiveness evaluation, the proposed geographic area, and duration for the program pilot.

(H) Any existing demand-side program with tariff sheets in effect prior to the effective date of this rule shall be included in the initial application for approval of demand-side programs if the utility intends for unrecovered and/or new costs related to the existing demand-side program be included in the **Demand-Side Program Investment Mechanisms (**DSIM**)** cost recovery *[revenue requirement]* **amount** and/or if the utility intends to establish a *[utility lost revenue]* **throughput disincentive** component of a DSIM or a**n** *[utility incentive]* **earnings opportunity** component of a DSIM for the existing demand-side program. The commission shall approve, approve with modification acceptable to the electric utility, or reject such applications for approval of demand-side program plans within one hundred twenty (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 an individual demand-side program, the commission shall approve, approve with modification acceptable to the electric utility, or reject applications within sixty (60) days of the filing of an application under this section only after providing the opportunity for a hearing.

*[(A)]***(I) The commission shall consider the TRC test a preferred cost-effectiveness test.** For demand-side programs and program plans that have a *[total resource cost]* **TRC** test ratio greater than one (1), the commission shall approve demand-side programs or program plans, and annual demand and energy savings targets for each demand-side program it approves, provided it finds that the utility has met the filing and submission requirements of *[4 CSR 240-3.164(2)]* **this rule** and the demand-side programs *[and program plans]*—

1. Are consistent with a goal of achieving all cost-effective demand-side savings;

2. Have reliable evaluation, measurement, and verification plans; and

3. 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 and program plans on the net present value of revenue requirements of the electric utility.

*[(B)]***(J)** The commission shall approve demand-side programs having a *[total resource cost]* **TRC** test ratio less than one (1) for demand-side programs targeted to low-income customers or general education campaigns, if the commission determines that the utility has met the filing and submission requirements of *[4 CSR 240-3.164(2),]* **this rule**, the **demand-side** program *[or program plan]* is in the public interest, and **the demand-side program** meets the requirements stated in paragraphs (3)*[(A)]***(G)**2. and 3.

1. If a **demand-side** program is targeted to low-income customers, the electric utility must also state how the electric utility will assess the expected and actual effect of the **demand-side** program on the utility's bad debt expenses, customer arrearages, and disconnections.

*[(C)]***(K)** The commission shall approve demand-side programs which have a *[total resource cost]* **TRC** test ratio less than one (1), if the commission finds the utility has met the filing and submission requirements of *[4 CSR 240-3.164(2)]* **this rule** and the costs of such **demand-side** programs above the level determined to be cost-effective are funded by the customers participating in the **demand-side** programs or through tax or other governmental credits or incentives specifically designed for that purpose and meet the requirements as stated in paragraphs (3)*[(A)]***(G)**2. and 3.

*[(D)]***(L)** Utilities shall file and receive approval of associated tariff sheets prior to implementation of approved demand-side programs.

*[(E)]***(M)** The commission shall simultaneously approve, approve with modification acceptable to the utility, or reject the utility's DSIM proposed pursuant to 4 CSR 240-20.093.

*[(4)]***(5)** Applications for Approval of Modifications to Electric Utility Demand-Side Programs.

(A) Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility—

1. *[s]***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(4)]* when there is a variance of *[twenty]* **forty** percent *[(20)%]* **(40%)** or more in the approved demand-side plan three- (3-)*[-]* year budget and/or any **demand-side** program design modification which is no longer covered by the approved tariff sheets for the **demand-side** program*[.]***;**

2. Shall file an application with the commission for modification of demand-side programs including, but not limited to, the following:

A. Reallocation of funds among demand-side programs;

B. Changes in allocation based on contract implementers input, such as if a demand-side program is performing below expectations;

C. Changes in incentive amounts paid to customers;

3. The application shall include a complete explanation for and documentation of the proposed modifications to each of the filing requirements in section (3). All models and spreadsheets shall be provided as executable versions in native format with all formulas intact;

4. The electric utility shall serve a copy of its application to all parties to the case under which the demand-side programs were approved;

5. The parties shall have thirty (30) days from the date of filing of an application to object to the application to modify;

6. If no objection is raised within thirty (30) days, *[T]***t**he commission shall approve, approve with modification acceptable to the electric utility, or reject such applications for approval of modification of demand-side programs within *[thirty (30)]* **forty-five (45)** days of the filing of an application under this section, subject to the same guidelines as established in *[sub]*section*[s]* (3)*[(A) through (C), only after providing the opportunity for a hearing.]***;**

7. If objections to the application are raised, the commission shall provide the opportunity for a hearing.

*[(A)]***(B)** For any **demand-side** 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)]***(6)** 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(5)]*.

(A) The application shall include the following information. All models and spreadsheets shall be provided as executable versions in native format with all formulas intact.

1. Complete explanation for the utility's decision to request to discontinue a demand-side program.

2. EM&V reports for the demand-side program in question.

3. Date by which a final EM&V report for the demand-side program in question will be filed.

(B) If a demand-side program subject to the TRC is determined not to be cost-effective, the electric utility shall identify the causes why and present possible demand-side program modifications that could make the demand-side program cost-effective. If analysis of these modified demand-side program designs suggests that none would be cost-effective, the demand-side program may be discontinued. In this case, the utility shall describe how it intends to end the demand-side program and how it intends to achieve the energy and demand savings initially estimated for the discontinued demand-side program. Nothing here-in requires utilities to end any demand-side program which is subject to a cost-effectiveness test deemed not cost-effective immediately. Utilities proposal for any discontinuation of a demand-side program should consider, but not be limited to: the potential impact on the market for energy efficiency services in its territory; the potential impact to vendors and the utilities relationship with vendors; the potential disruption to the market and to customer outreach efforts from immediate starting and stopping of demand-side programs; and whether the long term prospects indicate that continued pursuit of a demand-side program will result in a long-term cost-effective benefit to ratepayers.

(C) The commission shall approve or reject such applications for discontinuation of utility demand-side programs within thirty (30) days of the filing of an application under this section only after providing an opportunity for a hearing.

*[(6)]***(7)** Provisions for Customers to Opt-Out of Participation in Utility Demand-Side Programs.

(A) Any customer meeting one (1) 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 (1) 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 (12) 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 across its accounts, a coincident demand of two thousand five hundred (2,500) kW or more in the previous twelve (12) 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 **demand-side** programs. **The customer shall submit to commission staff sufficient documentation to demonstrate compliance with these criteria, including the amount of energy savings. Examples of documentation could include, but are not limited to:**

A. Lists of all energy efficiency measures with work papers to show energy savings and demand savings. This can include engineering studies, cost benefit analysis, etc.;

B. Documentation of anticipated lifetime of installed energy efficiency measures;

C. Invoices and payment requisition papers;

D. Other information which documents compliance with this rule;

*[A.]***E.** 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*[.]***; or**

F. Any confidential business information submitted as documentation shall be clearly designated as such in accordance with 4 CSR 240-2.135;

4. Opt-out in accordance with paragraph (7)(A)3. shall be valid for the term of the Missouri Energy Efficiency Act (MEEIA) cycle approved by the commission. Customers who opt-out consistent with paragraph (7)(A)3. may apply to opt-out again in successive MEEIA cycles, consistent with the requirements of paragraph (7)(A)3.

(B) Written notification of opt-out from customers meeting the criteria under paragraph *[(6)]***(7)**(A)1. or 2. shall be sent to the utility serving the customer. Written notification of opt-out from customers meeting the criteria under paragraph *[(6)]***(7)**(A)3. shall be sent to the utility serving the customer and the manager of the energy resource analysis section of the commission or submitted through the commission's electronic filing and information system (EFIS) as a non-case-related filing. In instances where only the utility is provided notification of opt-out from customers meeting the criteria under paragraph *[(6)]***(7)**(A)3., the utility shall forward a copy of the written notification to the manager of the energy resource analysis section of the commission and submit the notice of opt-out through EFIS as a non-case-related filing.

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

1. Customer's legal 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 program's benefits and costs; and

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

(D) For customers filing notification of opt-out under paragraph *[(6)]***(7)**(A)1. or 2., 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 staff within thirty (30) days of when the utility received the written notification of opt-out from the customer.

(E) For customers filing notification of opt-out under paragraph *[(6)]***(7)**(A)3., the staff will make the determination of whether the customer meets the criteria of paragraph *[(6)]***(7)**(A)3. Notification of the staff's acknowledgement or disagreement with customer's qualification 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 staff received *[written notification of the opt-out]* **complete documentation of compliance with paragraph (7)(A)3**.

(F) Timing and Effect of Opt-Out Provisions.

1. A customer notice **of opt-out** shall be received by the utility no earlier than September 1 and not later than October 30 to be effective for the following *[calendar]* **program** year.

2. For that calendar year **in which the customer receives acknowledgement of opt-out** and each successive *[calendar]* **program** year until the customer revokes the notice pursuant to subsection (6)(H), **or the customer is notified that it no longer satisfies the requirements of paragraph (7)(A)3.,** none of the costs of approved demand-side programs of an electric utility offered pursuant to 4 CSR 240-20.093, 4 CSR 240-20.094, *[4 CSR 240-3.163, and 4 CSR 240-3.164]* or by other authority and no other charges implemented in accordance with section 393.1075, RSMo, shall be assigned to any account of the customer, including its affiliates and subsidiaries listed on the customer's written notification of opt-out.

(G) Dispute Notices. If the utility or staff provides notice that a customer does not meet the opt-out criteria to qualify for opt-out **or renewal of opt-out**, the customer may file a complaint with the commission. The commission shall provide notice and an opportunity for a hearing to resolve any dispute.

(H) Revocation. A customer may revoke an opt-out by providing written notice to the utility and commission two to four (2–4) months in advance of the *[calendar]* **program** year for which it will become eligible for the utility's demand-side programs**'***[s]* costs and benefits. Any customer revoking an opt-out to participate in *[a]* **demand-side** programs will be required to remain in the **demand-side** program**(s)** for the number of years over which the cost of that **demand-side** program**(s)** is being recovered, or until the cost of their participation in *[that]* **the demand-side** program**(s)** has been recovered.

(I) A customer who participates in demand-side programs initiated after August 1, 2009, shall be required to participate in **demand-side** programs funding for a period of three (3) years following the last date when the customer received a demand-side incentive or a service. **Participation shall be determined based on premise location regardless of the ownership of the premise.**

(J) A customer electing not to participate in an electric utility's demand-side programs under this section shall still be allowed to participate in interruptible or curtailable rate schedules or tariffs offered by the electric utility.

*[(7)]***(8)** 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 253.5*[61]***59**, RSMo, shall not be eligible for participation in any demand-side program offered by a utility if such **demand-side** program offers the customer a monetary incentive to participate. **The provisions of this subsection shall not apply to any low income customer who would otherwise be eligible to participate in a demand-side program that is offered by a utility to low income customers.**

(B) As a condition of participation in any demand-side program offered by an electric utility under this section, when such **demand-side** program offers a monetary incentive to the customer, the customer shall attest to non-receipt of any tax credit listed in subsection *[(7)]***(8)**(A) and acknowledge that the penalty for a customer who provides false documentation is a class A misdemeanor. The electric utility shall maintain documentation of customer attestation and acknowledgement for the term of the demand-side program and three (3) years beyond.

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

1. The name of the participant, or the names of the principals if for a company;

2. The service property address; and

3. The date of and amount of the monetary incentive received.

(D) Upon request by the commission or staff, the utility shall disclose participant information in subsections *[(7)]***(8)**(B) and (C) to the commission and/or staff.

*[(8)]***(9)** Collaborative Guidelines.

(A) Utility-Specific Collaboratives. Each electric utility and its stakeholders shall form a utility-specific advisory collaborative for input on the design, implementation, and review of demand-side programs as well as input on the preparation of market potential studies. This collaborative process may take place simultaneously with the collaborative process related to demand-side programs for 4 CSR 240-22. Collaborative meetings are encouraged to occur at least once each calendar quarter. **In order to provide appropriate and informed input on the design, implementation, and review of demand-side programs, the stakeholders will be provided drafts of all plans and documents prior to meeting with adequate time to review and provide comments. In addition, all stakeholders will be provided opportunity to inform and suggest agenda items for each meeting and to present presentations and proposal. All participants shall be given a reasonable period of time to propose agenda items and prepare for any presentations.**

(B) State-Wide Collaborative*[s]*.

1. Electric utilities and their stakeholders shall form**ally establish** a state-wide advisory collaborative *[to: 1) address the creation of a technical resource manual that includes values for deemed savings, 2) provide the opportunity for the sharing, among utilities and other stakeholders, of lessons learned from demand-side program planning and implementation, and 3) create a forum for discussing statewide policy issues]*. **The collaborative shall—**

A. Create and implement statewide protocols for evaluation, measurement, and verification of energy efficiency savings, no later than July 1, 2018, and updated annually thereafter;

B. Establish individual working groups to address the creation of the specific deliverables of the collaborative; and

C. Create a semi-annual forum for discussing and resolving statewide policy issues, wherein utilities may share lessons learned from demand-side program planning and implementation, and wherein stakeholders may provide input on how to implement the recommendations of the individual working groups;

D. Explore other opportunities, such as development of a percentage adder for non-energy benefits.

2. Within sixty (60) days of the effective date of this rule, commission staff shall file, with the commission, a charter for the

statewide advisory collaborative.

3. Collaborative meetings *[are encouraged to]* **shall** occur at least *[once each calendar year]* **semi-annually**. **Additional meetings or conference calls will be scheduled as needed.** Staff shall **schedule the meetings,** provide notice of the *[statewide collaborative]* meetings and **any** interested persons may attend such meetings.

(10) Statewide Technical Reference Manual (TRM).

(A) Utilities and stakeholders will work to create and implement a statewide TRM that includes values and formulas for deemed savings and includes commonly used measures for all utility sectors.

(B) The statewide TRM shall be submitted to the commission for review.

1. The commission may either approve or reject the proposed statewide TRM.

2. If the commission rejects the proposed statewide TRM, stakeholders shall address the commission concerns and submit a revised statewide TRM within ninety (90) days of an order rejecting.

(C) Upon approval of a statewide TRM, the commission may begin the process of securing a vendor to provide an electronic platform that will facilitate annual updates.

1. Funding for the electronic platform and annual updates shall be provided by investor-owned utilities without MEEIA programs through their Public Service Commission assessment and by investor-owned utilities with MEEIA programs through their cost recovery component of a DSIM.

(D) The statewide TRM shall be updated by December 31 of each year following commission approval of the initial statewide TRM.

1. Staff shall be responsible for updating the statewide TRM—

A. No later than July 1 of each year, staff shall convene one (1) or more stakeholder meetings to seek input on revisions to the TRM.

2. Annual updates shall be submitted to the commission for review no later than September 1 of each year.

A. The commission may either approve or reject the proposed revisions no later than October 1 of each year.

B. If the commission rejects the proposed statewide TRM, utilities and stakeholders shall address the commission concerns and submit a revised statewide TRM within thirty (30) days of an order rejecting.

(E) The commission may consider the appropriateness of using an approved statewide TRM in each utility's application for approval of demand-side programs.

*[(9)]***(11)** 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.]

AUTHORITY: sections 393.1075.11 and 393.1075.15, RSMo [Supp. 2010] ***2016****. Original rule filed Oct. 4, 2010, effective May 30, 2011. Amended: Filed Dec. 27, 2016.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before April 27, 2017, and should include reference to Commission Case No. EX-2016-0334. Comments may also be submitted via a filing using the commission's electronic filing and information system at http://www.psc.mo.gov/efis.asp. A public hearing regarding this proposed amendment is scheduled for May 4, 2017, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., 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 amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: 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 or TDD Hotline 1-800-829-7541.

Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 3—*[Higher Educational]* Residency *[Determination]* ***and Transfer***

PROPOSED AMENDMENT

6 CSR 10-3.010 Determination of Student Residency. The department is deleting sections (4), (5), and (8); deleting subsections (7)(B), (7)(C), (9)(F), (9)(G), and (9)(H); adding subsections (2)(B), (2)(C), (2)(D), (3)(B), (3)(C), and (3)(D); and amending the chapter title and subsections (1)(B), (1)(E), (1)(F)–(1)(J), (2)(A), (3)(A), (6)(B), (6)(C), (6)(D), (7)(A), (9)(A), (9)(C), (9)(D), (9)(E), (9)(H), (10)(A), (10)(B), (11)(B), and (11)(C), and renumbering as necessary.

PURPOSE: This amendment eliminates repetition, rephrases with simpler and fewer words, updates word choice, and more logically organizes the criteria and requirements for student residency determinations by institutions and the department. Furthermore, this amendment implements the military tuition benefits provided by SB 968 (2016) and harmonizes state tuition benefits for veterans with more generous federal requirements.

(1) Definitions.

(B) Adult student shall mean **any emancipated minor student or** any student having attained the age of twenty-one (21) years.

(E) Dependent student shall mean, for the purposes of **state** financial aid eligibility, any student who is not an independent student.

(F) Domicile shall mean presence *[within]* **in** a state with an intent of making the state a permanent home for an indefinite period.

(G) Emancipated minor student shall mean any student not having attained the age of twenty-one (21) years and who is not under the care, custody, and support of a*[n individual or individuals having]* legal *[custody]* **custodian(s)**. **An unemancipated minor may become emancipated through marriage, formal court action, abandonment, or positive action of alienation on the part of the minor. Mere absence of the minor student from the domicile of his or her legal custodian(s) shall not constitute proof of emancipation. Any minor student taken as an income tax deduction by anyone other than a spouse shall be considered an unemancipated minor. In all instances, alienation from care, custody, and support shall be complete, and the burden of satisfactory proof of emancipation shall be that of the minor student.**