



July 8, 2015

Ms. Natelle Dietrich
Director Utility Operations
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

Case No. EW-2015-0105 – MEEIA Effectiveness Review Workshop

Dear Ms. Dietrich:

Ameren Missouri reiterates its appreciation for Staff's efforts to synthesize the various comments and recommendations of the diverse group of parties in this rulemaking.

As noted in our previous correspondence of June 19, 2015, we remain concerned that the course of this rulemaking has strayed from a productive course and risks running afoul of the basic premise upon which any rule should be based; the intent and plain meaning of the statute should be given effect and the legislature's intent should be honored. The MEEIA legislation is unequivocally intended to encourage energy efficiency through utility-sponsored programs, and thus it follows that the rule should appropriately follow the same course.

As we understand it, Staff has assumed a role of neutral arbiter, seeking to reflect the various (and disparate) recommendations of the parties within the context of a single document for the benefit of the Commission's review. However, we see a frailty in this process that emanates from apparent disregard of certain parties for the *voluntary basis* upon which the MEEIA legislation is premised.

MEEIA is intended to *encourage* utilities to offer energy efficiency and the Commission to approve cost-effective energy efficiency plans. To date, it appears that many of the parties continue to see the rulemaking as a means by which to fundamentally re-draft the MEEIA legislation and establish a regulatory process that seeks to force utilities to comply with mandates and also include restrictive filing requirements and conditions for utilities implementing such programs. The myriad of *mandates* and *restrictions* sought by these parties are counter-productive when the goal of the underlying legislation is to *incentivize* and *promote* utility-sponsored energy efficiency programs.

The financial barriers to energy efficiency should be of paramount concern. Central to the rule should be provisions that address the clear financial disincentive for utilities to offer energy efficient products in Missouri; a jurisdiction where low residential customer charges are pervasive, historic test years are used, and long rate case lead times are the norm. The DSIM that the rule seeks to accommodate must address these realities in order for energy efficiency to become a demand-side resource that can stand with traditional supply-side resources as a viable option to meet future load requirements. The DSIM must provide for contemporaneous recovery in a manner that allows utilities to recognize associated revenues on financial statements. Otherwise, utilities run the risk of incurring costs to persuade their customers to use less of their product, decreasing their revenue, and reflecting the same to their investors. From a fiduciary perspective, such a result is simply untenable. Accordingly, a bad rule increases these risks and gives rise to a clear imbalance between demand-side and traditional supply-side resources to meet prospective demand. To prevent a bad rule, the parties should work to develop a consensus draft that provides an enabling framework. Addressing the disincentive

that arises from the presently-effective rate design is the *cornerstone* to a policy framework that will enable the intent of the MEEIA legislation to be realized.

While examples from other jurisdictions may help to inform energy efficiency policy in this state, they cannot be transplanted into Missouri without consideration of both the specifics of the MEEIA legislation and the particular circumstances specific to Missouri utilities and the communities they serve. For example, a statewide potential study is duplicative of the requirement for individual utility potential studies. Also, Missouri is served by two regional transmission organization markets and each utility has different avoided costs.

At this juncture, the rule represents an amalgamation of various parties' positions rather than a rule that is intended by design to put into effect the intent of its enabling legislation. Instead, the parties should consider development of a recommended rule that incorporates a recognition that the legislation is intended to facilitate energy efficiency, and cooperate in furtherance of a rule that is intentional in its approach to implementing the MEEIA law.

There is no need to repeat the previous arguments made, and the Company incorporates by reference its past comments provided to date as part of this workshop. Additionally, the Company is currently involved in a MEEIA application process and reserves the right to change its position as it gains additional insight.

Ameren Missouri's comments are attached hereto as Exhibit A. For reference, the Company's June 19 letter is attached hereto as Exhibit B.

Sincerely,

Matthew R. Tomc

Matthew R. Tomc

4 CSR 240-20.092 Definitions for Demand-Side Programs and Demand-Side Program 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) Achievable Potential means the amount of energy use that efficiency can realistically be expected to displace assuming the most aggressive program scenario possible (e.g., providing end-users with payments for the entire incremental cost of more efficiency equipment). Achievable potential takes into account real-world barriers to convincing end-users to adopt efficiency measures, the non-measure costs of delivering programs (for administration, marketing, tracking systems, monitoring and evaluation, and so on), and the capability of programs and administrators to ramp up program activity over time;

Utility Stakeholders: Oppose changing to NAPEE definitions. Support keeping current ACEEE definitions. ACEEE defines Technical, Economic, RAP and MAP potentials. ACEEE definitions are also used in the Chapter 22 IRP rules. NAPEE definitions are outdated (2007). Redefining MAP as Achievable potential has significant cost impacts to customers.

Response:

(B) Annual report means a report of information concerning a utility's demand-side programs having the content described in ~~4-CSR 240-3.1634~~ 4 CSR 240.093(58);

(~~CE~~) 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;

(~~DE~~) 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, but are not limited to, -avoided utility costs resulting from demand-side programs' energy savings and demand savings associated with plant in service, operations and maintenance, administrative and general expenses, probable environmental compliance costs, and non-energy benefits 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; Avoided costs used in a MEEIA filing shall be held constant for the duration of the MEEIA implementation plan.

Utility Stakeholder: Proposes to strike the language highlighted in green above based on IRP determining the avoided costs for the utility. If the verbiage must stay to gain consensus, Ameren can live with "Avoided costs may include..." Avoided costs and avoided utility costs are 2 different things and need to be separated. Avoided costs can mean anywhere there are cost savings due to EE, while Avoided utility costs is costs that are specific only to the utility. NEBS in Avoided utility costs would only apply to those that represent utility costs.

Response:

(~~EG~~) 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;

(~~FH~~) 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;

(~~GI~~) 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;

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

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

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

~~(IK)~~ Demand-side portfolio or portfolio of programs means all of a utility's demand-side programs at a defined point in time that has been approved under a utility's approved MEEIA plan;

(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 electric meter including, but not limited to, energy efficiency measures, load management, demand response, and interruptible or curtailable load;

~~(ML)~~ Demand-side program plan means a particular combination of demand-side programs that has been approved under a utility's approved MEEIA plan to be delivered according to a specified implementation schedule and budget;

This is the same definition of (K) Demand-side portfolio

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~~(NM)~~ 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 throughput disincentive; and

5. Utility incentive based on the achieved performance level of approved demand-side programs;

~~(ON)~~ 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-side savings targets are the baseline for determining the utility's demand side portfolio's demand savings performance levels (in the methodology for the utility incentive component of a demand-side portfolio's investment mechanism (DSIM))

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Ameren - Energy Efficiency targets energy savings, demand savings have very little M&V opportunity and some measures actually have a negative demand impact. A target in the filing is fine, but the utility would be disincented to provide some measures if demand was a part of the utility incentive calculation.

~~(P)~~ 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;

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

~~(PR)~~ DSIM revenue requirement means the sum of the DSIM cost recovery revenue requirement, DSIM utility lost revenue requirement, DSIM throughput disincentive revenue requirement, and DSIM utility incentive revenue requirement;

~~(SQ)~~ 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;

~~(TR)~~ 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;

~~(New)~~ DSIM utility throughput disincentive revenue requirement means the revenue requirement approved by the commission to provide the utility with recovery of throughput disincentive a portion of net shared benefits based on the approved utility throughput disincentive component of a DSIM.

~~(UP)~~ Economic potential means the theoretical subset of the technical potential that is economically cost-effective as compared to conventional supply-side energy resources, assuming the immediate implementation of efficiency measures with no regard for the gradual "ramping up" process of real-life programs, ignoring the market barriers to ensuring the actual implementation of such measures, and only considering the costs of

~~efficiency measures themselves while ignoring any programmatic costs (e.g., marketing, analysis, administration) that would be necessary to capture them. 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;~~

▲ Ameren – use ACEEE definition

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

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

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

(Y) 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 (in the methodology for the utility incentive component of a DSIM);

(~~ZV~~) 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 benefit, cost effectiveness, and other effects from demand-side programs;

(~~AAW~~) 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;

(~~BBX~~) 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;

(~~CCV~~) 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;

(~~DDY~~) 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;

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

(new) Market Transformation- need definition is 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.

(~~FFX~~) 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 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;

Ameren—Use ACEE definition for MAP

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~~(GGY)~~ 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 from more fuel-efficient units;

~~(HH) Net sShared bBenefits means the utility's avoided costs- program benefits~~ measured and documented through evaluation, measurement, and verification (EM&V) reports or a technical resource manual for approved 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 on an annual basis; .

Ameren – Benefits are not measured and documented, they are calculated based on measures and savings. The measures and savings can be measured and documented. NSB can be calculated with deemed or evaluated savings, but the EM&V language does not belong here.

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~~(II) Non Energy Benefits means effects attributable to energy efficiency programs apart from energy savings;~~

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, such as reduced arrearage carrying costs, reduced customer collection calls/notices, reduced termination/reconnection costs, and reduced bad debt write-offs; these non energy benefits would be the only NEBS considered for the TRC and the UCT tests; and
3. Indirect benefits to society at large, including but not limited to, such as job creation, economic development, energy security, public safety, reduced emissions and emission related health care costs, and other environmental benefits.
- 4.-Non Energy Benefits ~~shall~~ may be included in cost-effectiveness tests such as the total resource cost test and the societal cost test unless they cannot be calculated with a reasonable degree of confidence; In order to be included in cost tests such as the Total Resource Cost test, Non Energy Benefits must be quantifiable.

~~(AAJJ)~~ Non-participant test (sometimes referred to as the ratepayer impact measure 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. Unnecessary to define everything else, it is not done in the next definition for participant test.

~~(BBKK)~~ Participant test means the 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;

~~(CCLL)~~ Preferred resource plan means the utility's resource plan that is contained in the resource acquisition strategy most recently adopted submitted before a MEEIA filing by the utility's decision-makers in accordance with 4 CSR 240-22;

Ameren-The MEEIA filing is built on the most recently submitted Preferred Resource Plan. due to the timing of IRP filings and the MEEIA cycles another Preferred resource plan will be submitted before the end of a MEEIA cycle. This new Preferred resource plan does not change anything in the current MEEIA cycle. The new Preferred resource plan will only inform the filing for the next MEEIA plan.
Should remain "adopted" rather than "submitted." The submittal of an IRP or a revised preferred plan is a required notification to the Commission. It shouldn't restrict the use of a plan adopted by utility management before that submittal has been made.

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(~~MMZ~~) 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 reasonably be 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, and related federal and state laws and regulation 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;~~

Ameren Use the original definition. Matches the definition in the IRP rules.

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

(~~FPOO~~) Program potential refers to the efficiency potential possible given specific program funding levels and designs. Program potential studies can consider scenarios ranging from a single program to a full portfolio of programs. A typical potential study may report a range of results based on different program funding levels; ~~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;~~

Utility Stakeholders: Oppose changing to NAPEE definitions. Support keeping current definitions. Program potential is not relevant to Missouri, which uses an IRP process. It would be relevant to a resource standard state [Use ACEEE RAP definition](#)

Response:

(~~GGPP~~) 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;

(~~QQBB~~) 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;

(~~RREC~~) Statewide technical resource manual means a document ~~developed by the state-wide collaborative and approved by the commission~~ that is used by all electric utilities to assess energy savings and demand savings attributable to energy efficiency and demand response;

(~~HSS~~) Technical potential means the theoretical maximum amount of energy use that could be displaced by efficiency, disregarding all non-engineering constraints such as cost-effectiveness and the willingness of end-users to adopt the efficiency measures. Technical potential is often estimated as a "snapshot" in time, assuming the immediate implementation of all technologically feasible energy saving measures, with additional efficiency opportunities assumed as they arise from activities such as new construction; ~~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;~~

Ameren – Use ACEE definition

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(TT) Technical Resource Manual, or TRM means a document used to assess energy savings and demand savings attributable to energy efficiency and demand response programs within its 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) Total resource cost test, or TRC, a test that compares the sum of avoided utility costs and avoided probable environmental compliance 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 or utility 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 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. 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.~~

Utility Stakeholders: Oppose the proposed language. Suggests adding the incentive paid to the customer to the TRC. The only NEBS that would qualify for the TRC would be NEBS that are benefits to the utility. The statute states "the sum of avoided utility costs and avoided probable environmental compliance cost" NEBS would have to be associated with the cost of compliance. Avoided costs are different than avoided utility costs and do not apply to the TRC.

Response:

~~(KKWW)~~ Utility cost test means the test that compares the avoided utility costs and avoided probable environmental compliance costs to the sum of all utility costs utility incentive payments to the customer, plus utility costs to administer, deliver, and evaluate each demand side program to quantify the net savings obtained by substituting the demand side program for supply side resources.

~~(XXFF)~~ 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;

~~(YYFF)~~ 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

~~(ZZ) Utility 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.~~

All cost effective energy efficiency means realistic achievable potential ("RAP") because, by definition, RAP represents a forecast of likely customers behavior under realistic program design and implementation.

Deemed results means the energy savings or the demand savings, documented or calculated, in the TRM multiplied by the documented measure count. The sum of all measures installed in a program times their TRM value equals the Program's deemed results. The sum of all Program's deemed results equals the Portfolio deemed result.

Evaluated results means the energy savings or the demand savings, documented through measurement and verification, multiplied by the measure counts, documented through measurement and verification. These results may then be adjusted by the evaluation of Net to Gross savings (NTG).

AUTHORITY: section 393.1075.11, RSMo Supp. 2010. Original rule filed Oct. 4, 2010, effective May 30, 2011.*

**Original authority: 393.1075, RSMo 2009.*

4 CSR 240-20.093 Demand-Side Programs Investment Mechanisms

PURPOSE: This amendment...

(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**, which is incorporated by reference.

(2) Applications to establish, continue, or modify a 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) 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 customer bills.

Utility Stakeholder: Proposes an alternative process – initial notice to customers through form of a media release and upon approval, the utility will provide additional detail as provided for in (2) and (3) below on the bill. Request to not have to provide a detailed notice as current regulations require on something that will change.

Response:

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 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 program impacts, for each rate class. These estimates will take into account the net present value of all lifetime benefits from the efficiency programs accruing to the utility system and consumers, including any retail price effect impacts resulting from reduced electric demand.

Ameren – added retail to clarify this is about customer bill impacts and not about DRIPE.

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

5.6. 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.

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

7.8. A proposal for how the commission can determine if any utility incentives component of a DSIM are aligned with helping customers use energy more efficiently.

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

9.10. If the utility proposes to adjust the DSIM cost recovery revenue requirement between general rate proceedings, a complete explanation of how the DSIM rates shall be established and adjusted to reflect

over-collections or under-collections as well as the impact on the DSIM ~~cost recovery~~ revenue requirement as a result of approved new, modified, or discontinued demand-side programs.

11. If net shared benefits are to be determined as part of the DSIM, the method proposed and assumptions for calculation of the net shared benefits to be used throughout the life of the approved DSIM.

(BA) 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. 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 a utility incentive related to the DSIM in setting the electric utility's allowed return on equity, in addition to any other changes in business risk experienced by the electric utility; and
4. Any additional information the commission orders to be provided.

(CB) 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.

(DC) 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;

4. As a component of this goal, any efficiency incentive payment shall be paid by the utility within 30 days of receipt of the customer application;

5. Any incentive payments shall be assigned by the utility to any third-party contractor identified by the customer upon reasonable notice to the utility;

6. Any incentive payments that are based on kWh saved to use the kWh savings over the useful life of the measure rather than the first-year savings;

Proposed by contractor/installer, opposed by utility stakeholders as unworkable and unnecessary.

Response:

(ED) 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.

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

(~~GF~~) 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 and/or utility's portion of statewide technical resource 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.

(~~HG~~) Any utility lost revenue component ~~or 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 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 ~~or throughput disincentive 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 or throughput disincentive 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.~~

~~(I) Any utility 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 by the deemed energy or demand savings in the TRM effective for the DSIM.~~

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

~~2. In a utility's filing for demand-side program approval in which a utility 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 utility throughput disincentive component of a DSIM shall be implemented on a prospective basis.~~

Utility Stakeholder: New language proposed to ensure recovery of throughput disincentive.

Response:

(H) Any utility incentive 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 measurement and verification 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 measurement and verification EM&V reports, annual energy savings achieved and documented through measurement and verification EM&V reports as a percentage of ~~annual~~ energy savings targets, ~~and~~ annual demand savings achieved and documented through measurement and verification EM&V reports as a percentage of ~~annual~~ demand savings targets.

1. ~~Annual~~ Energy and demand savings targets approved by the commission for use in the utility incentive 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(2).

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

3. Any utility incentive 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 must be measured and verified through EM&V.

(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 of the DSIM revenue requirement as well as the impact on the DSIM cost recovery revenue requirement as a result of approved new, modified, or deleted demand-side programs.

(K) If the commission approves utility incentive component of a DSIM, such utility incentive 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.

(L) The commission shall apportion the DSIM revenue requirement to each customer class.

(M) If a program subject to the TRC cost effectiveness test under Section 393.1075.4 RSMo is determined not to be cost-effective, the electric utility shall identify the causes why and present possible program modifications that could make the program cost-effective. If analysis of these modified program designs suggests that none would be cost-effective, the program may be discontinued in accordance with 4 CSR 240-20.094(6). In this case, the utility shall describe how it intends to end the program and how it intends to achieve the energy and demand savings initially estimated for the discontinued program. Nothing here-in requires utilities to end any program which is subject to a cost-effectiveness test deemed not cost-effective immediately. Utilities proposal for any discontinuation of a 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 programs; and whether the long term prospects indicate that continued pursuit of a program will result in a long term cost-effective benefit to ratepayers.

Utility Stakeholders: Object to this new language on the grounds that there are other methods proposed for increasing or decreasing targets based on added or discontinued targets. This probably fits better in 20.094 rather than where it is in the DSIM section

Response:

(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, the 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-collection or under-collection of the DSIM revenue requirement 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, lost revenues, and/or to receive a utility incentive.
4. A complete explanation of any change in business risk to the electric utility resulting from discontinuation of a utility incentive related to the DSIM in setting the electric utility's allowed return on equity, in addition to any other changes in business risk experienced by the electric utility.
5. Any additional information the commission orders to be provided.

(B) Any party to the utility's filing for demand-side program approval may oppose the discontinuation of a DSIM or any component of a DSIM.

(C) In addition to any other changes in business risk experienced by the electric utility, the commission may take into account any change in business risk to the electric utility resulting from discontinuance of the DSIM in setting the electric utility's allowed return on equity in a general rate proceeding.

(D) If the utility requests that cost recovery be discontinued, in its notice to customers, the electric utility shall include a commission-approved description of why it believes the cost recovery component of the DSIM should be discontinued.

(4) Requirements for ~~Semi-Annual~~ Adjustments of DSIM Rates; ~~if the Commission Approves Adjustments of DSIM Rates Between General Rate Proceedings. Semi-annual a~~ Adjustments to DSIM rates between general rate proceedings shall occur not less than annually, and may include adjustments to the DSIM cost recovery revenue requirement, ~~and shall not include any adjustments to the DSIM utility lost revenue requirement, the DSIM throughput disincentive revenue requirement, or the DSIM utility incentive revenue requirement. 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-collected or under-collected 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. ~~Annual report as required by 4 CSR 240 20.093(8).~~
7. Any additional information the commission ordered to be provided.

~~(B) files tariff sheets to adjust its DSIM rates between general rate proceedings.~~ The 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 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.

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

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

~~(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.

~~(F)~~ If the staff, public counsel, or other party receives information which has not been submitted in compliance with ~~section (4)(A) 4 CSR 240 3.163(8)~~, 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 ~~section (4)(A) 4 CSR 240 3.163(8)~~, 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 ~~section (4)(A) 4 CSR 240 3.163(8)~~ 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 ~~section (4)(A) 4 CSR 240 3.163(8)~~ 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 to allow full recovery of all DSIM cost including revenue requirements, components, performance incentive, etc., or for the term otherwise ordered by the commission. four (X) years unless the~~ The commission ~~may earlier~~ authorizes the modification or discontinuance of the DSIM, ~~or change the duration previously approved. , although a~~ Then electric utility shall submit proposed tariff sheets to implement interim ~~semi-annual~~ adjustments to its DSIM rates between general rate proceedings.

~~(B) During the term of an approved DSIM, any party to the application for a utility's filing for demand-side program approval may propose to the modifications to the DSIM. The utility may apply to modify the DSIM programs per 20-.093(2). 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 Customers' 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 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.

Can the Staff Counsel provide legal representation if the auditor has a position contrary to Staff's position?

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(A) Each utility's EM&V budget shall not exceed five percent (5%) of the utility's total budget for all approved demand-side program costs.

(B) The cost of the commission's EM&V contractor shall—

1. Not be a part of the utility's budget for demand-side programs; and
2. Be included in the Missouri Public Service Commission Assessment for each utility.

(C) EM&V draft reports from the utility's contractor for each approved demand-side program shall be delivered simultaneously to the utility and to parties of the case in which the demand-side program was approved.

(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 program, and the techniques used to estimate annual demand savings and energy savings; and

II. For 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 program.

III. Determine the benefits achieved for each program and portfolio using the UCT methodology

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

32. 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:~~

1. Include specific methodology for performing EM&V work, in place of a statewide technical resource manual, until a statewide technical resource manual is approved by the commission;
- 1-2. ~~If available, utilize a commission approved statewide technical resource manual when performing EM&V work, as appropriate.~~ All applications to establish, continue or modify a DSIM filed after a statewide technical resource manual is approved by the commission shall require EM&V contractors to use the most current statewide technical resource manual. Applications approved before the statewide technical resource manual is approved shall utilize the methodology approved with the application.

Utility Stakeholders: Remain concerned about articulating how MEEIA cycles approved before the statewide TRM are not subject to the statewide TRM.

Response:

(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) days~~ 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 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) days~~ sixty (60) 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;

(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 program was approved;
4. For market transformation programs, a quantitative and qualitative assessment of the progress being made in transforming the market;
5. A comparison of actual and budgeted program costs, including an explanation of any increase or decrease of more ~~than ten percent~~ than ten percent in the cost of a program;
6. The avoided costs and the techniques used to estimate those costs;
7. The estimated cost-effectiveness of the demand-side program and a comparison to the estimates made by the utility at the time the program was approved;
8. The estimated net economic benefits and net shared benefits of the demand-side ~~program~~ program portfolio;
9. For each 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. ~~A copy of the EM&V report for the most recent annual reporting period~~ 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; and

(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.

[▲] Ameren - What is this format? Why can't it be spelled out?

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(A) The Surveillance Monitoring Report shall be submitted within fifteen (15) days of the electric utility's next scheduled United States Securities and Exchange Commission (SEC) 10-Q or 10-K filing with the initial submission within fifteen (15) days of the electric utility's next scheduled SEC 10-Q or 10-K filing following the effective date of the commission order establishing the DSIM.

(B) If the electric utility also has an approved environmental cost recovery mechanism or a fuel cost adjustment mechanism, the electric utility shall submit a single Surveillance Monitoring Report for all mechanisms.

(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 Section (9)4 CSR 240-3.163(6), after notice and an opportunity for a hearing, the commission may suspend a DSIM or order other appropriate remedies as provided by law.

(10) Prudence Reviews. A prudence review of the costs subject to the DSIM shall be conducted no less frequently than at twenty-four (24)-month intervals.

(A) All amounts ordered refunded by the commission shall include interest at the electric utility's short-term borrowing rate.

(B) The staff shall submit a recommendation regarding its examination and analysis to the commission not later than one hundred fifty (150) days after the staff initiates its prudence audit. The timing and frequency of prudence audits for DSIM shall be established in the utility's filing for demand-side program approval in which the DSIM is established. The staff shall file notice within ten (10) days of starting its prudence audit. The commission shall issue an order not later than two hundred ten (210) days after the staff commences its prudence audit if no party to the proceeding in which the prudence audit is occurring files, within one hundred sixty (160) days of the staff's commencement of its prudence audit, a request for a hearing.

1. If the staff, public counsel, or other party auditing the DSIM believes that insufficient information has been supplied to make a recommendation regarding the prudence of the electric utility's DSIM, it may utilize discovery to obtain the information it seeks. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel, the processing timeline shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing timeline. For good cause shown, the commission may further suspend this timeline.

2. If the timeline is extended due to an electric utility's failure to timely provide sufficient responses to discovery and a refund is due to the customers, the electric utility shall refund all imprudently incurred costs plus interest at the electric utility's short-term borrowing rate.

(11) Tariffs and Regulatory Plans. The provisions of this rule shall not affect—

(A) Any adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to the effective date of this rule; and

(B) Any experimental regulatory plan that was approved by the commission and in effect prior to the effective date of this rule.

(12) Nothing in this rule shall preclude a complaint case from being filed, as provided by law.

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

~~(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.~~

(14) 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 modifying, or continuing 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) MEEIA Rate Design Modifications

(1) 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 —

(A) An application for approval of demand-side programs or a demand-side program plan and a DSIM; or

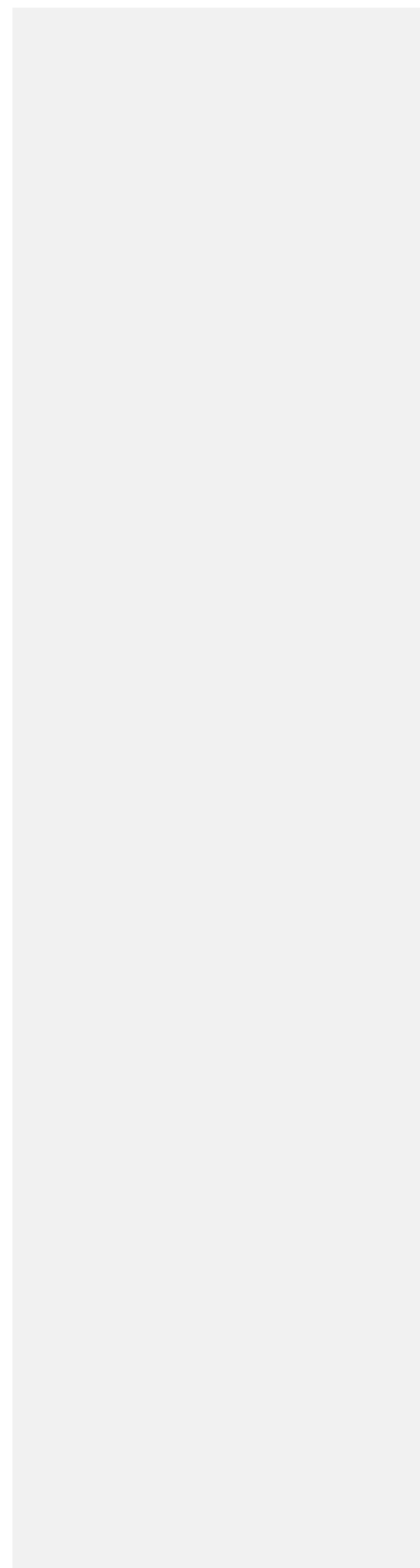
(B) A general rate case proceeding

~~(162)~~ 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.

~~(173)~~ 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. Original rule filed Oct. 4, 2010, effective May 30, 2011.*

**Original authority: 393.1075, RSMo 2009.*



4 CSR 240-20.094 Demand-Side Programs

PURPOSE: This amendment...

(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, which is incorporated by reference.

(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~~ market potential study or the following incremental annual demand-side savings goals as a guideline to review and approve demand side plan and 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 the utility's approved first program year 2012: three-tenths percent (0.3%) of total annual energy and one percent (1.0%) of annual peak demand;
2. For the utility's approved second program year 2013: five-tenths percent (0.5%) of total annual energy and one percent (1.0%) of annual peak demand;
3. For the utility's approved third program year 2014: seven-tenths percent (0.7%) of total annual energy and one percent (1.0%) of annual peak demand;
4. For the utility's approved fourth program year 2015: nine-tenths percent (0.9%) of total annual energy and one percent (1.0%) of annual peak demand;
5. For the utility's approved fifth program year 2016: one-and-one-tenth percent (1.1%) of total annual energy and one percent (1.0%) of annual peak demand;
6. For the utility's approved sixth program year 2017: one-and-three-tenths percent (1.3%) of total annual energy and one percent (1.0%) of annual peak demand;
7. For the utility's approved seventh program year 2018: one-and-five-tenths percent (1.5%) of total annual energy and one percent (1.0%) of annual peak demand;
8. For the utility's approved eighth program year 2019: one-and-seven-tenths percent (1.7%) of total annual energy and one percent (1.0%) of annual peak demand; and
9. For the utility's approved ninth and subsequent program years 2020 and for subsequent 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 amount of achievable energy savings and demand savings that is as determined to be cost-effectively achievable through ~~the utility's~~ market potential study or the following cumulative demand-side savings goals as a guideline to review and approve demand side plans and 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 the utility's approved first program year 2012: three-tenths percent (0.3%) of total annual energy and one percent (1.0%) of annual peak demand;

2. For the utility's approved second program year2013: eight-tenths percent (0.8%) of total annual energy and two percent (2.0%) of annual peak demand;
3. For the utility's approved third program year2014: one-and-five-tenths percent (1.5%) of total annual energy and three percent (3.0%) of annual peak demand;
4. For the utility's approved fourth program year2015: two-and-four-tenths percent (2.4%) of total annual energy and four percent (4.0%) of annual peak demand;
5. For the utility's approved fifth program year2016: three-and-five-tenths percent (3.5%) of total annual energy and five percent (5.0%) of annual peak demand;
6. For the utility's approved sixth program year2017: four-and-eight-tenths percent (4.8%) of total annual energy and six percent (6.0%) of annual peak demand;
7. For the utility's approved seventh program year2018: six-and-three-tenths percent (6.3%) of total annual energy and seven percent (7.0%) of annual peak demand;
8. For the utility's approved eighth program year2019: eight percent (8.0%) of total annual energy and eight percent (8.0%) of annual peak demand; and
9. For the utility's approved ninth and subsequent program years2020 and for subsequent 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.

Utility stakeholders support removing specific targets/goals. 1. They have no basis. 2. They have no corresponding budgets that inform the Commission of the rate impacts to customers, and 3. They have no enforceability.

Environmental, Division of Energy, OPC support targets/goals in rule.

(32) Utility Market Potential Study. Market potential studies provide goals for utility programs and may be used as a guideline to review the utility's progress toward meeting an expectation that the electric utility's demand-side programs can achieve a goal of all cost-effective demand side savings.

(A) The market potential study shall:

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

2. Use census data and/or GIS mapping data;

3. Include the determination of whether to conduct a market potential study for the utility's service territory or for all statewide investor owned electric utilities shall be at the discretion of the electric utility;

4. 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;

5. Be prepared by an independent third party;

6. Include a estimate of the achievable potential, regardless of cost effectiveness, of energy savings from low-income programs—Energy savings from multifamily buildings that house low-income households may count toward this target; and

~~7. Include an assessment of quantifiable non-energy benefits expected to be associated with energy efficiency measures.~~

~~(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. A public version of the study assumptions, methodology and non-energy benefits should be made available for review so that stakeholders can effectively critique the study's overall goals and objectives, analytical framework, input assumptions, and interim results. A mechanism for, and adequate time for, Commission resolution of disagreements about potential study assumptions, methodology, and non-energy benefits must be included.~~

~~(C) Utility market potential studies shall be utilized until a statewide market potential study is created in accordance with 4 CSR 240-20.094(9)(B), after which electric utilities shall utilize the statewide potential study in subsequent MEEIA applications.~~

Utility Stakeholders: Object to the concept of a statewide potential study. They prefer that each utility develop their own market potential studies. A Market Potential Study is required of each utility by the IRP rules. These studies include, as inputs, the costs associated with each utility. A statewide potential study would not meet the requirements of the IRP rules. Why should customers pay for another study to estimate statewide potential?

Response:

~~(43) Applications for Approval of Electric Utility Demand-Side Programs or Program Plans. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility may file an application with the commission for approval of demand-side programs portfolio or program portfolio plans.~~

~~(A) Prior to filing an application for approval of electric utility demand-side programs or program plans, the electric utility shall hold a stakeholder advisory meeting to receive input on the following components of its proposed DSM filing.~~

- ~~1. Avoided probable environmental compliance costs;~~
- ~~2. Including a Net-to-gross formula, and if included including whether free ridership, spillover, rebound and market effects will be included in the calculation;~~
- ~~3. Calculation of net shared benefits;~~
- ~~4. Inclusion of energy efficiency programs from any source.~~

~~(B) As part of its application for approval of electric utility demand-side programs or program plans, 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.~~

Utility Stakeholders: Object to the concept of stakeholder input on these points at this stage in the process. They prefer that if stakeholder input occur, that it be provided prior to completion of the market potential study. These inputs would then remain the same for the MEEIA filing and implementation.

Response:

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 program plan is part of a statewide investor-owned electric utilities market potential study.~~ the sampling methodology shall reflect each utility's service territory and shall provide statistically significant results for that utility;

- A. ~~1.~~ Complete documentation of all assumptions, definitions, methodologies, sampling techniques, and other aspects of the current market potential study;
- B. ~~2.~~ 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; and
- D. ~~Third party and other~~ naturally occurring demand-side savings, and
- E. The increasing efficiency of advanced technologies.

(~~BC~~) Demonstration of cost-effectiveness for each demand-side program and for the total of all demand-side programs of the utility excluding programs that are not subject to a cost-effectiveness test under Section 393.1075.4, RSMc. At a minimum, the electric utility shall include:

Ameren- Cost effectiveness tests should be included for all programs, whether subject to the rule of being cost effective or not. In order to make a determination of "Public Interest" the Commission may want to see the actual cost effectiveness of the LI program.

What is a Third party savings?

1. ~~1.~~ The total resource cost test and a detailed description of the utility's avoided cost calculations and all assumptions used in the calculation. To the extent that the portfolio of programs fails to meet the TRC test, the utility shall examine whether the failure persists if it considers the addition of or modifications to programs that reflect best practices from other successful demand-side programs, a reasonable range of uncertainty in the assumptions used to calculate avoided costs and other recommendations from stakeholders;

Ameren - The utility would not file an application if the portfolio did not meet the TRC test.

2. The utility shall also include calculations for the utility cost test, the participant test, the non-participant test, and the societal cost test. Tests other than the TRC All tests may include quantifiable Non Energy Benefits; and

Ameren - This section is telling the utility what information to include in demonstrating the cost effectiveness of programs. Whether to include NEBS or not should be in the definition of the tests not here.

Comment [GC1]: Need to be consistent with .092, once these definition issues are resolved.

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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.

(~~CD~~) 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 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 program and an 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. Program incentive costs;

~~C. Program implementation costs not including customer incentives;~~

This is A.

- ~~DC.~~ Estimated equipment and installation costs, including any customer contributions;
- E. EM&V costs; and

F. 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.

(~~ED~~) 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 programs. Should the expected demand-side savings fall short of the incremental annual demand-side savings levels and/or the cumulative demand-side savings levels used to review the utility's plan, the utility shall provide detailed explanation of why the incremental annual demand-side savings levels and/or the cumulative demand-side savings levels cannot be expected to be achieved, and the utility shall bear the burden of proof.

(~~FE~~) 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).

(3) Designation of Program Pilots. For 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 if the program is subject to a cost-effectiveness test under Section 393.1075.4 RSMo, the proposed geographic area, and duration for the program pilot.

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Ameren - Cost effectiveness should be analyzed for any Pilot program. The Commission may need it to determine Public Interest.

(F) 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 DSIM cost recovery revenue requirement and/or if the utility intends to establish a utility lost revenue component of a DSIM or a utility incentive 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.

(GA) The total resource cost test shall be the preferred screening test for demand-side programs. A utility shall not be required to include a measure or program that has a negative net shared benefit; however, the net shared benefit screen will not be applied to low-income programs.

Ameren – this is all covered below.

For demand-side programs and program plans that have a total resource cost 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.

(HB) The commission shall approve demand-side programs having a total resource cost 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 program or program plan is in the public interest, the portfolio of programs is beneficial to all customers within the customer class, and meets the requirements stated in paragraphs (3)(AG)2. and 3.

Division of Energy: Object to the requirement that low income programs be included as part of the portfolio, when considering whether the portfolio is beneficial to all customers in the class. They state that programs not subject to the cost tests should not count against the overall portfolio.

Response: Ameren – Recovery for programs is dependent on programs being beneficial to all customers within the customer class. The utility is not going to offer if it will not receive recovery for it.

1. If a 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 program on the utility's bad debt expenses, customer arrearages, and disconnections.

(~~IE~~) The commission shall approve demand-side programs which have a total resource cost 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 programs above the level determined to be cost-effective are funded by the customers participating in the programs or through tax or other governmental credits or incentives specifically designed for that purpose and meet the requirements as stated in paragraphs (3)(~~AG~~)2. and 3.

(~~ID~~) Utilities shall file and receive approval of associated tariff sheets prior to implementation of approved demand-side programs.

(~~KE~~) 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.

(~~54~~) 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 ~~fortytwo~~ twenty percent (~~420~~) or more in the approved demand-side plan three (3)-year budget and/or any program design modification which is no longer covered by the approved tariff sheets for the program. ~~A utility shall also be required to file an application for the modification of its demand-side programs that results in a change in incentive amounts paid to customers.~~

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

~~A. Reallocation of funds among programs;~~

~~B. Changes in allocation based on contract implementers input, such as if a program is not performing below expectations working.~~

~~C. A utility shall also be required to file an application for the modification of its demand-side programs that results in a change in incentive amounts paid to customers.~~

Division of Energy: Object to the concept of filing if changing the incentive payment. States this decreases flexibility to respond to market forces.

Response:

Utility Stakeholder: Object to the requirement to file an application associated with reallocation of funds, changing contractors, or changing incentives. State that currently they are not required to file an application to make such changes. This decreases flexibility to respond to market forces.

Response:

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 the Office of Public Counsel and all other 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 30 days, the commission shall approve, approve with modification acceptable to the electric utility, or reject such applications for approval of modification of demand-side programs within ~~thirty~~forty-five (3045) days of the filing of an application under this section, subject to the same guidelines as established in ~~subsection (3)(A) through (C),~~

7. If objections to the application are raised, the Commission shall only after providing the opportunity for a hearing.

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

~~(65)~~ 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.

(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.

~~by filing information and documentation required by 4 CSR 240 3.164(5).~~

(B) 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.

~~(76)~~ 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 programs. The customer shall submit to commission Staff

sufficient documentation to demonstrate compliance with this criteria, including the amount of energy savings. Examples ~~documentation would 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; or

D. Other information which documents compliance with this rule.

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.

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 subsection (7)(A)(3) shall be valid for the term of the MEEIA cycle approved by the commission. Customers who opt-out consistent with subsection (7)(A)(3) may apply to opt-out again in successive MEEIA cycles, consistent with the requirements of subsection (7)(A)(3).

(B) Written notification of opt-out from customers meeting the criteria under paragraph (76)(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 (76)(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 (76)(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 (76)(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 (76)(A)3., the staff will make the determination of whether the customer meets the criteria of paragraph (67)(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 ~~the written notification~~complete documentation of compliance with (67)(A)3. of opt-out.

(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 1st and not later than October 30th to be effective for the following calendar program year.

2. A new customer whose account is created outside of the opt-out notice period may apply for provisional opt-out approval. This approval will be valid until the following September 1st, at which time a new customer notice will be required per (7)(F).

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), the customer's opt-out expires at the end of a MEEIA cycle or the customer is notified that it no longer satisfies the requirements of Section (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.

Utility stakeholder recommends removal of addition related to expiration of opt out as impractical to implement.

Response:

(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 program's costs and benefits. Any customer revoking an opt-out to participate in a program will be required to remain in the program for the number of years over which the cost of that program is being recovered, or until the cost of their participation in that program has been recovered.

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

(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.

~~(87)~~ 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~~5964~~, RSMo, shall not be eligible for participation in any demand-side program offered by a utility if such 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 program offers a monetary incentive to the customer, the customer shall attest to non-receipt of any tax credit listed in subsection (7)(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 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)(B) and (C) to the commission and/or staff.

(98) 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 to propose agenda items and prepare for any presentations.

(B) State-Wide Collaboratives-

1. Electric utilities and their stakeholders shall formally establish a state-wide advisory collaborative. The Collaborative shall:

A. Create and implement a statewide technical resource manual that includes values for deemed savings and addresses measures in all sectors, including Commercial & Industrial, Residential, Residential Multifamily, and Residential Low Income, no later than July 1, 2019, and updated annually by July 1st thereafter;

Ameren – How will a statewide TRM be used? For program design? For Throughput disincentive calculations? For utility incentive calculations? Does it replace some or all EM&V? What is the benefit of spending the money to build this if we do not know how we are going to use it?

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

Ameren Same questions as the statewide TRM, what protocols? how is it to be used? A TRM reduces the need for EM&V.

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C. Create a statewide market potential study, to be utilized in the design and approval of electric utilities' demand side programs, no later than July 1, 2019, and updated every 3 years thereafter;

Utility Stakeholders: Object to the concept of a statewide potential study. They prefer that each utility develop their own market potential studies.

No need to call out individual programs, it already says all sectors.

July 1 may be difficult to update a TRM if EM&V results are not finalized.

Response:

C. Create and implement an online statewide reporting tool to be used by utilities in submitting their annual reports;

Utility Stakeholder: Object on the belief that this contradicts other annual reporting requirements.

Who pays for? Administers? Hosts?

Response:

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

F. 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 reach resolution on how to implement the recommendations of the individual working groups.

Ameren – This reads as if stakeholders have the final say for MEEIA decisions. MEEIA is a voluntary program that the utilities are given an incentive to offer to customers. Stakeholders may provide input, but they do not resolve how to implement. The utility has the final decision on implementation within an approved program.

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G. Explore other opportunities, such as ~~D~~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, and approved by a majority of the voting members of the collaborative. Staff shall schedule the meetings, provide notice of the statewide collaborative meetings and any interested persons may attend such meetings.

(109) 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.

Ameren- There still should be a periodic rule review.

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AUTHORITY: sections 393.1075.11 and 393.1075.15, RSMo Supp. 2010. Original rule filed Oct. 4, 2010, effective May 30, 2011.*

**Original authority: 393.1075, RSMo 2009.*

Unresolved issues/suggestions

This includes topics that have been introduced, but no example language was submitted and Staff was unable to synthesize language based on the input received.

- Market transformation studies –
 - OPC – should include – more prescriptive – OPC would provide.
 - Renew – prospectively not retrospectively – statewide collaborative process.
 - OPC – identify baseline.
 - Ameren – OK, make more science than art.
- Methods for resolving disagreements among the parties on the quality of Market Potential Studies.
 - OPC – procedure on how to move forward – dispute resolution process.
 - Ameren – Input up front, resolution process with defined limits – agree to what potential study says beforehand.
 - Renew – No way to resolve short of Commission filing.
 - OPC – Methodology? Consistently used. Utility propose up front – if parties have problem, then resolve.
 - Ameren & KCPL – Similar process to EM&V RFP process.
 - Ameren – Statewide non-starter – different avoided costs among other things.
- Adding specificity to “probable environmental costs” – IRP – avoided costs. Trued up or looked at mid-cycle.
- Defining “public interest” as it applies to programs not subject to cost effectiveness tests OPC – language that speaks to hard to reach customers
- Addressing the use of modifiers for predicting behavior, also known as the ‘take rate’ or ‘market adoption method’, in a Market Potential Study
- Decoupling –
- DSMore works with 2 cost streams. The Utility avoided costs and the Participant costs. Combinations of these 2 are used for the PCT, UCT, TRC, RIM and SCT (with a 10% adder for NEBS) DSMore cannot have a different cost stream for each of these tests, the amount of analysis would need to be repeated multiple times to account for different costs streams for each test. – Multiple cost streams would cause problems
 - avoided costs.
 - participant.
- EM&V of Net Shared Benefits – currently used for Utility performance incentive, not used for TD. so we have two NSB’s deemed and evaluated. Savings inputs, not net shared benefits subject to EM&V.
- Definition for “All cost effective” –
 - Ameren will provide.
 - Renew – consider .094(2)(B). If retain goals, how do you enforce?
 - OPC take rate.
- Development of a method to track energy savings by customers [of all classes] who have opted out.
 - OPC state implementation plan and 111(d) compliance – not necessarily for rules.
 - Walmart – understand need – should not be too onerous.
 - DE tracking database comments – way to do it without duplicating costs.

- Walmart – how to correlate with language to track when you don't report.
- Curt – capture info from other folks.
- KCPL – 6A3 category – customer opt-out when do they come in and recertify? OK – concept in there.

No consensus was reached on the following topics:

This includes topics for issues where one or more versions of language has been developed and debated by the group, but no consensus could be reached.

- Combined Heat and Power and Distributed Generation inclusion [some stakeholders seek inclusion, utilities do not agree definitions can be expanded beyond statute]_.
 - 092(L) and distributed gen.
 - DE – thought there was consensus or not disagreement.
 - Ameren – CHP some efficiencies – distributed generation – not efficiencies.
 - KCPL – CHP specific technology called out. Legislation – original definition in rules, didn't appear to include.
 - OPC – Distributed Generation – NO
 - CHP- quiet.
 - DE – clarity on CI programs.
 - Renew – May be situations in future to go in future. Not support / clarification to allow later.
 - CHP – 'modify' consumption including, but not limited to...
- Changes to RAP and MAP definitions.
 - Ameren – Achievable definition is a MAP definition – this is same as MAP, Program definition does not fit for RAP.
 - MIEC – New proposed definition not practical / useful.
 - KCPL – avoided cost from IRP in rule – consistency
 - DE - Statute does not explicitly require link to IRP process. MEEIA = all cost effective, not just least cost.
- Changing market potential study definition
 - OPC – Same as earlier discussion – 'Cost Effective' is where people are getting hung up. Issue is 'take rate' = how much is available. Need language on adoption rate assumptions.
- Valuation and inclusion of NEBS
 - Need an adder. Need to allow Commission to approve an adder. '10%'
 - "Shall" vs. "May" "Shall be included unless can't be estimated / calculated with reasonable confidence [(II)(4)]
 - TRC or societal – unless in societal so put in TRC.
 - 10% of savings attributed to NEBS
 - Commission order an adder be used – cleanest and easiest way to order.
 - OPC – Opposed to including and opposed to adding a requirement that utilities include in test.
 - DE – Most agree there are NEBS, some can be quantified.

- OPC – should utility be rewarded?
 - DE – all part of “all cost-effective
 - Renew – Does a NEB study and compromise on number allow for an adder without rule change?
 - OPC – What is adder accomplishing? Give utilities 10% more.
 - DE – NO. properly reflect when “all cost effective”
- Language was offered requiring a percentage of EE funds to be spent on low-income programs.
 - Utilities and industry groups objected to such language, which was originally suggested at 5%
 - NHT offered examples from other states, showing a range from 0.2%-10%
 - Renew - .2% is misleading – it's .2% of all utility revenues. They support.
- Changing the method of recovery of revenues (prospective vs retrospective)
- Reduction or elimination of EM&V
- Striking goals for demand and energy savings. Likewise no consensus was reached on revising the goals. OPC reduction or eliminations of ~~em~~EM&V and striking goals are tied.
- Inclusion of greenhouse gas reductions as energy efficiency measures
- Adding mandatory requirements to MEEIA, and placing the burden of proof on the utility that they had achieved the goals of MEEIA. The proposed language was objected to, based on MEEIA being a voluntary program.
- Adding guidance on conducting Market Potential Studies. Several options were discussed, some were adopted.
 - Ameren – seems open ended – where does it stop? already do this.
 - Renew – then should be in rule
 - OPC – should be estimated
 - DE – Support provision
 - KCPL – Calling out one part (like CHP) – part of the bigger issue – what would be in potential study?
 - Tower Grove – Should be studied because missed in other studies.
-
- Statewide Market Potential Study
 - KCPL – Pre-emptive to agree before they know what it is.
 - Ameren – different costs, different RTO's, different avoided costs.
 - Renew – Support assessing potential in a collaborative way. Highest net return / lowest risk. Not valuing energy efficiency as other states.
 - Dates – move up.
 - UFM – Statewide potential study waste of time.
 - OPC – Not waste of time – programs in 2 major cities and that's it. Given today's environment not important. By time rules come back, may be more appropriate.
- Recognizing non-traditional measures that reduce greenhouse gasses as EE measures
- Developing a default “adder” for non-energy benefits, which would be used in cost effectiveness tests. This would have the effect of making more programs pass the cost effectiveness tests. This would be an alternative to quantifying NEBs for a particular program.
- Targets for energy efficiency savings

- Changes to the definition of total resource cost test
- Decoupling the IRP from MEEIA
- Required to be consistent with the specific language in the statute, vs. flexibility
 - OPC to provide language on:
 - .092
 - attribution – utility vs. non-utility programs local government, institutional partnership. Utility performance incentive. Conflict of interest, 3rd party contractors and auditor.
 - .094 – statewide collaborative – added language



June 19, 2015

Ms. Natelle Dietrich
Director Utility Operations
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

File No: EO-2015-0055

Dear Ms. Dietrich:

We appreciate the efforts by Staff to take into account the positions of the parties and further efforts to develop a consensus rule. In many respects, progress has been made in addressing the challenges facing utilities that are seeking to continue implementation of large scale energy efficiency programs in Missouri. However, at this juncture we feel Staff's draft rules present a framework that does not align incentives of customers and utilities in a manner that will facilitate the continued advancement of energy efficiency programing.

From our standpoint, there exist key issues that remain unresolved. A threshold problem is that the rulemaking appears to be viewed by many as an opportunity to transform a state law that *enables* a utility to make use of energy efficiency as a resource into a rule that imposes *mandated* adherence to requirements that are fundamentally incongruent with the interests of the utility. More than merely a compliance obligation, energy efficiency filings are important and detailed voluntary initiatives undertaken by Missouri electric utilities to meet future load requirements in a cost effective manner.

Energy efficiency programs are essentially marketing programs designed to convince and incentivize customers to use less electricity. As an investor owned publicly traded company, there is a clear barrier for Ameren Missouri to spend considerable resources to convince customers to use less of our products and services. This defies the basic tenants of the fiduciary duty a company owes its investors. Our investors have a legitimate interest in receiving a fair opportunity to earn a return on their investment – after all, our investors provide the capital and bear the risk associated with providing essential public utility service to our communities. The barrier to utility investment in energy efficiency resources is heightened by the high sales incentive embedded in Missouri's regulatory framework. This framework is evident in review of the recently approved electric rate designs currently in effect. Utilities face real and significant losses when sales decline. Accordingly, the alignment of incentives is a critical path item from our perspective, and the elimination of the inherent bias against energy efficiency as a resource must be addressed.

Retrospective application of net-to-gross estimation of energy savings is untenable as a pre-requisite to receiving any revenue designed to overcome the barrier to aligning customer incentives with utility incentives.

Further, retrospective application of inherently subjective estimation methodologies is a catalyst for litigation and unproductive disputes among parties. Prospectively, it is in the interest of all parties to move toward deemed savings values that are subject to periodic prospective update, rather than retro-active revision of savings estimates.

Additional, we are concerned about other additions contained in Staff's current draft rules. Some of our most significant concerns are listed below as follows:

1. Realistic achievable potential and maximum achievable potential concepts are not clearly defined and delineated in the documents.
2. The continued inclusion of arbitrarily derived aspirational savings goals within the rule should be altered to reflect something more closely grounded in empirical data. Ameren Missouri continues to investigate a more appropriate means of establishing savings goals.
3. The role of NEBs in the MEEIA framework and the legality of the inclusions of such concepts within the draft rules requires close review.
4. Although we understand that a transition needs to be provided for with respect to the development of a statewide TRM, we have concerns about redundancy codified in the rule. A statewide TRM process, utility specific TRM requirements, and EM&V procedures as drafted creates a web of overlapping redundant measurement procedures that will require considerable resources and expense to administer.
5. Ameren Missouri is uncertain as to the requirements for rate design modifications and would like further review and discussion opportunities as to what the changes may require.
6. Ameren Missouri is concerned that the low income potential estimate provisions leave out detail and further discussion is warranted.
7. The Commission Staff should not represent the Commission Auditor at hearing. There is an inherent conflict of interest if the independent auditor takes a different view from the Staff
8. The inclusion of the estimation of market price of power impacts associated with Energy Efficiency also referred to as "DRIPE." The inclusion of DRIPE should be explored further, and if it is determined that it should be measured and included in the rule, the rule should provide for such inclusion with specificity.
9. Incentive payment and assignment obligations should be deleted. Business terms for ensuring appropriate payment or assignment of payment should be managed by the utility.
10. Statewide potential study is problematic from our standpoint. Each utility has its own avoided costs and other variables that are completely different than other utilities in the state. One major factor is Ameren is in MISO while Empire and KCPL are in SPP. Accordingly, we oppose this addition at this time.

We have included an attachment with our comments and concerns captured in a manner that offers our opinions with respect to specific language and sections in the rule. Our previously articulated suggestions and

edits are also not withdrawn and we continue to advocate the inclusion of reasonable reform to the MEEIA rules. We look forward to working with Staff and the parties on these important issues.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matthew R. Tomc", written over a light blue horizontal line.

Matthew R. Tomc