July 21, 2010

Mr. Steven Reed
Secretary of the Commission
Missouri Public Service Commission
200 Madison Street, Suite 100
Jefferson City, MO 65102-0360

Re: EX-2010-0368

Dear Mr. Reed:

The signatory parties, Union Electric Company d/b/a AmerenUE, Missouri Industrial Energy Consumers, Missouri Energy Group, and The Empire District Electric Company, write this letter to express their shared concern with a portion of the Missouri Public Service Commission Staff's (Staff) draft rules for the implementation of Section 393.1075 RSMo, otherwise known as the Missouri Energy Efficiency Investment Act (MEEIA).[1]

Specifically, the 4 CSR 240-20.094(2)(A) and (B) exceed the Commission's statutory authority. These two sections of the draft rule purport to capture "all cost-effective demand-side savings" by setting an incremental annual demand-side savings target and a cumulative demand-side savings target as the "all cost-effective" level (standard savings target).

The Missouri Public Service Commission (Commission) is an administrative agency of limited jurisdiction and authority, and the lawfulness of its actions depends entirely upon whether or not it has the statutory power and authority to act. No party disputes the Commission's authority to promulgate a rulemaking to implement MEEIA, indeed, certain portions of MEEIA require such a rulemaking to occur. However, all portions of any rulemaking must come either from statutory authority expressly allowed for in MEEIA or from a power necessary and proper to carry out the duties delegated to it. Neither standard supports the adoption of standard savings targets.

MEEIA contains no express authorization for the imposition of any standard savings targets. The legislature could have adopted set levels of demand-side savings from each Missouri electric utility or it could have expressly told the Commission to set such targets as part of its rulemaking authority. Because the legislature did neither, there is no express authority for the Commission to adopt standard savings targets in the regulations implementing MEEIA.

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[1] Each signatory party may also have additional concerns and, if so, may address them outside of this letter.

Nor is it necessary and proper for the Commission to impose standard savings targets in order to implement the statutory provisions of MEEIA. Others may argue that the language setting the goal of "achieving all cost-effective demand-side savings" somehow provides this authority, but such an interpretation leads to unreasonable results, which violate basic rules of statutory construction. The customers of AmerenUE and of Empire have different demographics and a reasonable target level for one cannot be presumed to be a reasonable target level for the other. Moreover, such an interpretation renders other portions of the statute useless. Basic principles of statutory construction require that every word, phrase and clause of a statute be given effect.[2] The portion of MEEIA containing the phrase "all cost-effective demand-side savings" also requires that all utility programs meet several requirements in order for the costs of those programs to be recovered by the utility from its customers. If the intent of MEEIA was to merely impose a set amount of demand-side savings, the rest of this section would not be necessary. The existence of these other requirements means that "all cost-effective demand-side savings" levels will be different for each electric utility.

The signatory parties represent a broad cross section of parties who appear on a regular basis before the Commission and who often find themselves opposing one another's positions. The fact that this diverse group all agree that the draft rules exceed the Commission's authority provides a strong basis upon which the Commission should reject these targets when it takes up the draft rules for discussion at Agenda. The Commission should recognize that these portions of the proposed draft rules exceed its statutory authority and strike both sections. Instead, the Commission should, in concert with the utility and other parties, set "all cost-effective demand-side savings" based upon each utility's most recent Integrated Resource Plan (which would include a utility- specific and transparent Market Potential Study) for each utility. Language implementing this change is attached to this letter.

Sincerely,

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[2] *Battis v. Hoffman*, 832 S.W.2d 937 (Mo.App. 1992)

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

PROPOSED RULE

4 CSR 240-3.164 Electric Utility Demand-Side Programs Filing and Submission Requirements

PURPOSE: This rule sets forth the information that an electric utility must provide when it seeks approval, modification or discontinuance of demand-side programs.

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

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

(B) Baseline energy forecast means a reference end-use forecast of energy 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.

(C) Baseline demand forecast means a reference end-use forecast of demand 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.

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

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

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

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

(H) 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.

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

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

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

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

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

(N) Measure means any device, technology 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.

(O) 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.

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

(Q) 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.

(R) 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.

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

(T) 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.

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

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

(2) When an electric utility files for approval of demand-side programs or demand-side program plans as described in 4 CSR 240-20.094(3), the electric utility shall file or provide a reference to which commission case contains the following information. All models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

(A) A current market potential study. The current market potential study shall use primary data and analysis for the utility's service territory. 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. If the current market potential study of the electric utility that is filing for approval of demand-side programs or a demand-side 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. The current market potential study shall 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. The current market potential study shall be prepared by an independent third party and shall include at least the following:

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

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

3. Clear description of the process 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

4. 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. 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.

5. Each electric utility and its stakeholders are encouraged to form an advisory collaborative for the development of the potential study scope. The advisory collaborative should also work together in the evaluation of the potential study bids to assess the qualifications of bidders and proposed approaches.

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

1. The total resource cost 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

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programs fails to meet the TRC test, the utility shall examine whether the failure persists if it considers a reasonable range of uncertainty in the assumptions used to calculate avoided costs;

2. In instances where the calculation of the total resource cost test does not demonstrate cost effectiveness, the utility shall include calculations for the utility cost test, the participant test and the societal cost test; and

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

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

1. Customers targeted;
2. Measures 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. EM&V plan including at least the proposed evaluation schedule and the proposed approach to achieving the evaluation goals pursuant to 4 CSR 240-3.163(7) and 4 CSR 240-20.093(7);
13. Budget information in the following categories:
    A. Administrative costs listed separately for the utility and/or program administrator;
    B. Program incentive costs;
    C. Estimated equipment costs;
    D. Estimated installation costs;
    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.
14. Description of any strategies used to minimize free riders;
15. Description of any strategies used to maximize spillover; and
16. For demand-side program plans, the proposed implementation schedule of individual demand-side programs.

D. Designation 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 section (2) subsections (C), (D) and (E) as is practical and shall include explicit questions that the program pilot will address, the means and methods by which the utility proposes to address the questions the program pilot is designed to address, a provisional cost-effectiveness evaluation, the proposed geographic area and duration for the program pilot.

Deleted: (D) Demonstration and explanation in quantitative and qualitative terms of how the utility's demand-side programs are expected to achieve 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 demonstrate that the utility's demand-side programs are expected to achieve all cost-effective demand-side savings in accordance with 4 CSR 240-20.094(2), 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.¶
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(4) When an electric utility files to modify demand-side programs as described in 4 CSR 240-20.094(4), the electric utility shall file a complete explanation for and documentation of the proposed modifications to each of the filing requirements in section (2). All models and spreadsheets shall be provided as executable versions in native format with all formulas intact.

(5)When an electric utility files to discontinue a demand-side program as described in 4 CSR 240-20.094(5), the electric utility shall file the following information. All models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

(A) Complete explanation for the utility's decision to request to discontinue a demand-side program;

(B) EM&V reports for the demand-side program in question; and

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

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

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

AUTHORITY: section 393.1075, RSMo 2009

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

PROPOSED RULE

4 CSR 240-20.093 Demand-Side Programs Investment Mechanisms

PURPOSE: This rule allows the establishment and operation of Demand-Side Programs Investment Mechanisms (DSIM), which allow periodic rate adjustments related to recovery of costs and utility incentives for investments in demand-side programs.

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

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

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

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

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

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

(F) Avoided cost or avoided utility cost means the cost savings obtained by substituting demand-side programs for existing and new supply-side resources. Avoided costs include: avoided utility costs resulting from energy cost savings and demand cost savings associated with generation, transmission and distribution facilities and avoided probable environmental costs.

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

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

(I) Cost recovery component of a DSIM means the methodology approved by the commission in a general rate proceeding to allow recovery of costs of approved demand-side programs with interest.

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

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

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

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

1. Cost recovery of demand-side program 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; and
4. Utility incentive based on the achieved performance level of approved demand-side programs.

(N) DSIM cost recovery revenue requirement means the revenue requirement approved by the commission in a general rate proceeding *or a semi-annual DSIM rate adjustment case* to allow recovery of costs of demand-side programs with interest.

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

(P) DSIM revenue requirement means the sum of the DSIM cost recovery revenue requirement and the DSIM utility incentive revenue requirement.

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

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

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

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

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

(V) 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.

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

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

(Y) Statewide technical reference manual means a document that is used by electric utilities to assess energy savings and demand savings attributable to energy efficiency and demand response.

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

(AA) Utility incentive component of a DSIM means the methodology approved by the commission in a general rate proceeding to allow the utility to receive a portion of annual net shared benefits achieved and documented through EM&V reports.

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

(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 general rate proceeding.

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

(B) Any party to the general rate proceeding 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.

(C) The commission shall approve the establishment, continuation or modification of a DSIM and associated tariff sheets if it finds the DSIM will assist the commission's efforts to implement state policy contained in section 393.1075, RSMo to:

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

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

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

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

(E) In determining to approve, modify, or continue a DSIM, the commission shall 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 cost recovery component and/or utility incentive component in the DSIM.

(F) 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 reference manual, shall be allocated to demand-side programs and thus shall be eligible for recovery through an approved DSIM. The commission shall order any DSIM rates in a general rate proceeding *or in a semi-annual DSIM rate adjustment case.*

(G) Any utility incentive component of a DSIM shall include a methodology for determining the utility's portion of annual net shared benefits achieved and documented through EM&V reports for approved demand-side programs. Each utility incentive component of a DSIM shall define the relationship between the utility's portion of annual net shared benefits achieved and documented through EM&V reports, annual energy savings achieved and documented through EM&V reports as a percentage of annual energy savings targets, and annual demand savings achieved and documented through EM&V reports as a percentage of annual demand savings targets.

1. The commission shall order any DSIM utility incentive revenue requirement only in a general rate proceeding.

Deleted: 1. Annual energy and demand savings targets approved by the commission for use in the DSIM utility incentive component 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). ¶
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(H) 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 to include a true-up for over- and under-collection of the DSIM revenue requirement as well as approved new, modified or deleted demand-side programs.

(I) If the commission approves a DSIM utility incentive component, 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.

(J) The Commission shall apportion the DSIM revenue requirement as follows:

1. The utility shall estimate the demand-related portion and the energy-related portion of demand-side costs using the relationship between the demand-related and energy-related avoided costs that were used to justify the demand-side program weighted by the demand and energy reductions that were used to justify the demand-side program.

2. The demand-related portion will be allocated to the rate classes on the contribution to seasonal peak demand of each rate class. For demand-side programs that impact the summer peak, the allocation will be based on the summer peak demand of the classes. For demand-side programs that impact the winter peak, the allocation will be based on the winter peak demand of the classes.

3. Energy-related costs will be allocated in proportion to the normalized annual energy level of each rate class.

4. Both demand and energy allocation factors will be adjusted to the generation level.

5. In assigning or allocating costs to rate classes, no cost shall be attributed based on the load characteristics of customers who have opted out of the utility's demand-side programs.

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

(A) The electric utility shall meet the filing requirements in 4 CSR 240-3.163(5).

(B) Any party to the general rate proceeding 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 initial notice to customers regarding the general rate proceeding, 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 adjustments to DSIM rates between general rate proceedings shall only include adjustments to the DSIM cost recovery revenue requirement and shall not include any adjustments to 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. When an electric utility 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 general rate proceeding. 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 general rate proceeding, 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 rate proceeding, the commission shall reject the proposed tariff sheets within sixty (60) days of the electric utility's filing and may instead order implementation of appropriate interim tariff sheets.

(A) An electric utility with a DSIM shall file to adjust its DSIM rates once every six (6) months.

(B) 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 general rate proceeding or semi-annual DSIM rate adjustment case plus the change in DSIM cost recovery revenue requirement which occurred since the most recent general rate proceeding or semi-annual DSIM rate adjustment case.

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

(D) If the staff, Public Counsel or other party which receives the information that the electric utility is required to submit in 4 CSR 240-3.163(6) and 4 CSR 240-3.163(8) and the commission order establishing, modifying or continuing the DSIM has not been submitted in compliance with that rule, it shall notify the electric utility within ten (10) days of the electric utility's filing of an application or tariff sheets to adjust DSIM rates and identify the information required. The electric utility shall submit the information identified by the party, or shall notify the party that it believes the information submitted was in compliance with the requirements of 4 CSR 240-3.163(8), within ten (10) days of the request. A party who notifies the electric utility it believes the electric utility has not submitted all the information required by 4 CSR 240-3.163(8) and as ordered by the commission in a previous proceeding and receives notice from the electric utility that the electric utility believes it has submitted all required information may file a motion with the commission for an order directing the electric utility to produce that information, i. e., a motion to compel. While the commission is considering the motion to compel, the processing timeline for the adjustment to increase DSIM rates shall be suspended. If the commission then issues an order requiring the information be submitted, the time necessary for the information to be submitted shall further extend the processing timeline for the adjustment to increase DSIM rates. For good cause shown the commission may further suspend this timeline. Any delay in submitting sufficient information in compliance with 4 CSR 240-3.163(8) or a commission order in a previous proceeding in a request to decrease DSIM rates shall not alter the processing timeline.

(5) Duration of DSIM. Once a DSIM is approved by the commission, it shall remain in effect for a term of not more than four (4) years unless the commission earlier authorizes the modification or discontinuance of the DSIM, *although an electric utility shall submit proposed tariff sheets to implement interim semi-annual adjustments to its DSIM rates between general rate proceedings*

(A) If the commission approves a DSIM for an electric utility, the electric utility must file a general rate proceeding with the effective date of new rates to be no later than 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.

(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.

(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 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 of each approved demand-side program shall:

1. Be completed by the utility's EM&V contractor on a schedule approved by the commission at the time of demand-side program approval in accordance with 4 CSR 240-20.094(3); and
2. Be filed with the commission and delivered simultaneously to the utility and the parties of the case in which the demand-side program was approved.

(E) Electric utility's EM&V contractors shall use, if available, a commission approved statewide technical reference manual when performing EM&V work.

(8) Demand-side program annual report. Each electric utility with one or more approved demand-side programs shall file an annual report providing information by no later than sixty (60) days after the end of each calendar 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 of its filing.

(9) Submission of Surveillance Monitoring Reports. Each electric utility with an approved DSIM shall submit to staff, Public Counsel and parties approved by the commission a Surveillance Monitoring Report in the form and having the content provided for by 4 CSR 240-3.163(6).

(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 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 eighty (180) days after the staff initiates its prudence audit. The timing and frequency of prudence audits for DSIM shall be established in the general rate proceeding 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 ninety (190) days of the staff's commencement of its prudence audit, a request for a hearing.

1. If the staff, OPC 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.

AUTHORITY: section 393.1075, RSMo 2009

• If it is determined that annual adjustments of DSIM rates between general rate proceedings are unlawful, the words in italic and underlined font will be deleted from the body of this rule.

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

PROPOSED RULE

4 CSR 240-20.094 Demand-Side Programs

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

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

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

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

(C) Avoided cost or avoided utility cost means the cost savings obtained by substituting demand-side programs for existing and new supply-side resources. Avoided costs include: avoided utility costs resulting from energy cost savings and demand cost savings associated with generation, transmission and distribution facilities and avoided probable environmental costs.

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

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

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

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

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

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

(J) DSIM cost recovery revenue requirement means the revenue requirement approved by the commission in a general rate proceeding *or a semi-annual DSIM rate adjustment case* to allow recovery of costs of demand-side programs with interest.

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

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

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

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

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

(P) 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.

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

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

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

Deleted: (2) Guideline to demonstrate that an electric utility's demand-side programs are expected to achieve all cost-effective demand-side savings.¶
(A) The commission shall use the greater of the annual realistic 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 demonstrate that the electric utility's demand-side programs are expected to achieve all cost-effective demand-side savings. ¶
1. For 2012: 0.3% of total annual energy and 1.0% of annual peak demand;¶
2. For 2013: 0.5% of total annual energy and 1.0% of annual peak demand;¶
3. For 2014: 0.7% of total annual energy and 1.0% of annual peak demand;¶
4. For 2015: 0.9% of total annual energy and 1.0% of annual peak demand;¶
5. For 2016: 1.1% of total annual energy and 1.0% of annual peak demand;¶
6. For 2017: 1.3% of total annual energy and 1.0% of annual peak demand;¶
7. For 2018: 1.5% of total annual energy and 1.0% of annual peak demand;¶
8. For 2019: 1.7% of total annual energy and 1.0% of annual peak demand; and¶
9. For 2020 and for subsequent years, unless additional energy savings and demand savings goals are established by the commission: 1.9% of total annual energy and 1.0% of annual peak demand each year.¶
(B) The commission shall also use the greater of the cumulative realistic achievable energy savings and demand savings as determined through the utility's market potential study or the following cumulative demand-side savings goals as a guideline to demonstrate that the electric utility's demand-side programs are expected to achieve all cost-effective demand-side savings.¶
1. For 2012: 0.3% of total annual energy and 1.0% of annual peak demand;¶
2. For 2013: 0.8% of total annual energy and 2.0% of annual peak demand;¶
3. For 2014: 1.5% of total annual energy and 3.0% of annual peak demand;¶
4. For 2015: 2.4% of total annual energy and 4.0% of annual peak demand;¶
5. For 2016: 3.5% of total annual energy and 5.0% of annual peak demand;¶
6. For 2017: 4.8% of total annual energy and 6.0% of annual peak demand;¶
7. For 2018: 6.3% of total annual energy and 7.0% of annual peak demand;¶
8. For 2019: 8.0% of total annual energy and 8.0% of annual peak demand; and¶
9. For 2020 and for subsequent years, unless additional energy savings and demand savings goals are established by the commission: 9.9% of total annual energy and 9.0% of annual peak demand each year.¶

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

hearing. In the case of a utility filing an application for approval of an individual demand-side program, the commission shall approve, approve with modification acceptable to the electric utility or reject applications within sixty (60) days of the filing of an application under this section only after providing the opportunity for a hearing.

(A) For demand-side programs and program plans that have a total resource cost test ratio greater than one (1.0), 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 submittal requirements of 4 CSR 240-3.164(2) 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;

3. Are estimated to be beneficial to all customers in the customer class in which the program is proposed, regardless of whether the program is utilized by all customers in that customer class; and

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

(B) The commission shall approve demand-side programs having a total resource cost test less than one (1.0) for demand-side programs targeted to low-income customers or general education campaigns, if the commission determines that the utility has met the filing and submittal requirements of 4 CSR 240-3.164(2), the program or program plan is in the public interest, and meet the requirements as stated in subsection (A)2.-4.

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

(C) The commission shall approve demand-side programs which have a total resource cost test less than one (1.0), if the commission finds the utility has met the filing and submittal requirements of 4 CSR 240-3.163(2) 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 subsection (A)2.-4.

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

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

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

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

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

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

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

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

3. The customer has accounts within the service territory of the electric utility that have, in aggregate 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.

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

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

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

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

1. Customer's 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 programs benefits and costs; and

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

(E) For customers filing notification of opt-out under section (6)(A)1.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.

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

(G) Timing and effect of opt-out provisions. A customer notice shall be received by the utility no earlier than September 1 and not later than October 30 to be effective for the following calendar year. For that calendar year and each successive calendar year until the customer revokes the notice pursuant to subsection (I), 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.

(H) Dispute notices. If the utility or staff provides notice that a customer does not meet the opt-out criteria to qualify for 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.

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

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

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

(7) Tax credits and monetary incentives.

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

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

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

1. The name of the participant, 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 subsection (7)(C) to the commission and/or staff.

(8) Collaborative guidelines. Each electric utility and its stakeholders are encouraged to form an advisory collaborative for the design, implementation and review of demand-side programs as well as the design and implementation of a statewide technical reference manual. This collaborative process may take place simultaneously with the collaborative process related to demand-side programs for 4 CSR 240-22 and may also include statewide collaborative meetings. Collaborative meetings are encouraged to occur at least once each calendar quarter.

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

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

AUTHORITY: section 393.1075, RSMo 2009