Warren Wood EFIS Case No. EW-2010-0265

From: Warren Wood [warren@missourienergy.org]
Sent: Thursday, June 03, 2010 2:10 PM
To: 'Rogers, John'
Cc: 'Bryant Kevin'; 'McConnell Michelle'; 'Voytas, Rick A'; 'Scott Keith'; 'Sherry McCormack'; 'Welikson, Laureen M'; 'Laurent, Dan G'; 'Sivils Carol'; 'Kidwell, Steve M'; 'Tatro, Wendy K'; 'Davis, Bill R'; 'Blanc Curtis'; 'Rush Tim'; 'Steiner Roger'; 'Liechti Lois'; 'Troy Marsha'; 'Snider Paul'; 'michelle@missourienergy.org'; 'Laura Ruediger'; 'Scott Keith'
Subject: MEDA Additional Proposed Revisions to Draft SB376 Rule
Attachments: SB 376 DRAFT RULE MEDA Complete Comments (6-03-10).DOC

FILED
JUN 3 2010
Missouri Public Service Commission

Dear Mr. Rogers,

The Missouri Energy Development Association and its member companies have continued to discuss beneficial changes to the draft SB 376 rule. The attached document reflects additional recommended changes to what we provided to you on May 26th. I accepted all the recommended changes in MEDA's 5/26 document and the additional changes we have at this time are reflected with track changes 'on' in the attached document.

Thank you for this opportunity to provide suggested changes. If you have any questions, please e-mail or call me.

Best Regards,
Warren Wood, PE
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-----Original Message-----
From: Warren Wood [mailto:warren@missourienergy.org]
Sent: Wednesday, May 26, 2010 7:51 AM
To: 'Rogers, John'
Cc: 'Bryant Kevin'; 'McConnell Michelle'; 'Voytas, Rick A'; 'Scott Keith'; 'Sherry McCormack'; 'Welikson, Laureen M'; 'Laurent, Dan G'; 'Sivils Carol'; 'Kidwell, Steve M'; 'Tatro, Wendy K'; 'Davis, Bill R'; 'Blanc Curtis'; 'Rush Tim'; 'Steiner Roger'; 'Liechti Lois'; 'Troy Marsha'; 'Snider Paul'; 'michelle@missourienergy.org'
Subject: MEDA Proposed Revisions to Draft SB376 Rule

Dear Mr. Rogers,

The Missouri Energy Development Association and its member companies have been discussing beneficial changes to the draft SB 376 rule in the recent workshop and with stakeholders. The recommended changes we have at this time are reflected in the attached document with track changes 'on'.

Thank you for this opportunity to provide suggested changes. I look forward to further discussions on structuring the provisions of this rule in support of achieving the objectives of SB 376.

If you have any questions, please e-mail or call me.

Best Regards,
Warren Wood, PE
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Demand-Side Programs Investment Rule

1. Policy Objectives

PURPOSE: This rule states the public policy goals the Commission is following in implementing the Missouri Energy Efficiency Investment Act of 2009 (section 393.1075 RSMo Supp 2009) by this chapter.

A. In implementing the Missouri Energy Efficiency Investment Act of 2009 (section 393.1075 RSMo Supp 2009) in this chapter the commission is following these public policy goals:

i. Encourage more efficient energy use and cost-effective demand-side programs;

ii. Have substantial justice between utilities and their customers;

iii. Value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs and, in doing so:

a. Provide timely cost recovery for utilities where timely cost recovery means that the utility shall begin recovery of its Demand-Side Investment Mechanism as detailed in Sections 9, 10 and 11 herein (including demand-side program costs, lost revenues and carryings costs) no later than 12 months after its initial investment expenditures.

b. 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~~

c. Provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings where timely earnings opportunities mean that the utility shall begin accrual of carrying costs effective with the first month subsequent to the expenditure based on an equal basis to the utility's last authorized rate of return in a company's rate case.

AUTHORITY: 393.1075, RSMo 2009

2. Definitions

PURPOSE: This rule defines terms used in the rules comprising 4 CSR 240- ________.

The following words and terms, when used in this chapter, shall have the meanings shown below:

"After-tax discount rate" means the utility's weighted cost of capital reduced by the utility's composite federal and state income tax rate multiplied by the utility's weighted cost of debt.

"Avoided cost" means the cost savings obtained by substituting demand-side resources for existing and new supply resources as calculated in 4 CSR 240-22.050.

"Baseline forecast" means the metric against which savings are measured. This estimates what would happen in the absence of any demand-side programs, and includes naturally occurring energy efficiency and codes and standards that are in place.

"Benefit/cost ratio" means the ratio of the present value of benefits to the present value of costs.

"Cost effectiveness tests" means one of the ~~four~~ five acceptable economic tests used to compare the present value of applicable benefits to the present value of applicable costs of a demand-side option or program. The tests are the total resource cost test, participant test, the ratepayer impact test, the societal test and utility test. An option or program passes a benefit/cost test if the benefit/cost ratio is equal to or greater than one.

"Commission" means the Public Service Commission of Missouri.

"Customer" means those who take service from an electric utility under rates in a tariff on filed with the commission.

"Customer incentive" means an amount or amounts provided to or on behalf of customers for the purpose of having customers participate in demand-side programs.

"Decoupling" or "revenue decoupling" means a rate adjustment mechanism that separates (decouples) an electric or gas utility's fixed cost recovery from the amount of electricity or gas it sells. Under decoupling, utilities collect revenues based on the regulatory determined revenue requirement, most often on a per customer basis. On a periodic basis revenues are "trued-up" to the predetermined revenue requirement using an automatic rate adjustment~~s~~ or deferral accounting.

"Demand response" means measures that decrease peak demand or shift demand to off-peak periods.

"Demand-side investment mechanism" may include when approved by the commission, without limitation, any combination of the following: decoupling, recovery of fixed costs (lost revenue), capitalization of investments in and expenditures for demand-side programs, rate design modifications, accelerated depreciation on demand-side investments, and allowing the utility to retain a portion of the net benefits of a demand-side program for its shareholders.

"Demand-side program" means any program conducted by the electric 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.

"Economic potential" means a theoretical construct that assumes all cost effective measures are adopted by customers, regardless of customer preferences.

"Electric Utility" or "Utility" means an "electrical corporation" as defined in section 386.020, RSMo.

"Energy efficiency" means measures that reduce the amount of electricity required to achieve a given end use.

"Evaluation, measurement and verification" (EM&V) means the performance of studies and activities intended to determine the actual savings and other effects from demand-side programs and measures.

"Evaluation, measurement and verification independent evaluator" means an independent third party approved by the commission that performs EM&V tasks as assigned by the Utility~~Commission~~.

"Free riders" means those program participants who would have done what a demand-side program intends to promote even without the program.

"Gross savings" means the change in energy and demand requirements for program participants.

"Interruptible or curtailable rate" means a rate under which a customer receives a reduced charge in exchange for agreeing to allow the electric utility to withdrawal the supply of electricity under certain specified conditions.

"Lost revenue" means the reduction in revenue that occurs when energy efficiency, demand response and/or conservation efforts cause a drop in sales or demand below the level used to set the electricity price. Sources of energy efficiency, demand response or conservation efforts can be from utility sponsored programs, third party sponsored programs, building codes, or appliance efficiency standards.

"Maximum achievable potential" takes into account expected program participation, based on customer preferences resulting from ideal implementation conditions. Maximum achievable potential establishes a maximum target for demand-side savings that a utility can hope to achieve through its demand-side program and involves incentives that represent a substantial portion of the incremental cost combined with high administrative and marketing costs. It is commonly-accepted in the industry that maximum achievable potential is considered the hypothetical upper-boundary of achievable savings potential simply because it presumes conditions that are ideal and not typically observed in real-world experience.

"Net benefits" means the net present value of avoided costs ~~benefits~~ less the associated program costs~~present value of costs as defined in the total resource cost test~~.

"Net societal benefits" means the present value of benefits less the present value of costs as defined in the societal test.

"Participant test" means an economic test used to compare the present value of benefits to the present value of costs over the useful life of demand-side option or program from the participant's perspective. Present values are calculated using a discount rate appropriate to the class of customers to which the demand-side option or program is targeted. Benefits are the sum of the present values of the customers' bill reductions, tax credits, and customer incentives for each year of the useful life of a demand-side option or program. Costs are the sum of present values of the customer participation costs (including initial capital costs, ongoing operations and maintenance costs, removal costs less a salvage value of existing equipment, and the value of the customer's time in arranging installation, if significant) and any resulting bill increases for each year of the useful life of the option or program. The calculation of bill increases and decreases must account for any time-differentiated rates to the customer or class of customers being analyzed.

"Pilot program" means a~~nd~~ program or project which generally is designed as a test or trial to demonstrate the effectiveness of a full program. For purposes of this rule, a pilot program is distinct from other program designs in that it shall include explicit questions that the pilot will address; explicit evaluation, measurement and verification methods designed to address pilot questions, estimates of program costs and savings, a provisional cost effectiveness evaluation, and shall be of limited duration until reassessment after a predetermined periods.

"Preferred resource plan" means the same definition found in 4 CSR 240-22.

"Program templates" describe the attributes of a program. Full implementation plans contain a level of detail with regard to marketing approach, incentive levels by measure, incentive fulfillment, recruiting and quality control which ~~is~~ are to be developed mutually between utility and its implementation contractor(s) after plan approval by the commission. The same concept applies to evaluation, measurement and verification plans.

"Rate design modification" …

"Ratepayer impact measure test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of a demand-side option or program from a rate level or electric utility's bill perspective. Present values are calculated using the utility's discount rate. Benefits are the sum of the present values of utility avoided capacity and energy costs (excluding the externality factor) and any revenue gains due to the demand-side options for each year of the useful life of the option or program. Costs are the sum of the present values of utility increased supply costs, revenue losses due to the demand-side options, utility program costs, and customer incentives for each year of the useful life of the option or program. The calculation of utility avoided capacity and energy, increased utility supply costs, and revenue gains and losses must use the utility's costing periods.

"Realistic achievable potential" represents what is considered to be realistic estimates of demand-side potential based on realistic parameters associated with demand-side program implementation (i.e. limited budgets, customer acceptance barriers, etc.)

"Seasonal peak demand" for an electric utility means the maximum hourly demand that occurred during that season.

"Societal test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of a demand-side option or program from a societal perspective. Present values are calculated using a 12-month average of the 10-year and 30-year Treasury Bond rate as the discount rate. The average shall be calculated using the most recent 12 months at the time the electric utility calculates its benefit/cost tests for its Demand-Side Program Plan. Benefits are the sum of the present values of the utility avoided supply and energy costs including the effects of externalities. Costs are the sum of the present values of utility program costs (excluding customer incentives), participant costs, and any increased utility supply costs for each year of the useful life of the option or program. The calculation of utility avoided capacity and energy and increased utility supply costs must use the utility costing periods.
"Spillover" means measures installed by customers independently of a demand-side program that occur due to the general influence or awareness building effects of the program.

"Technical potential" means a theoretical construct that assumes all feasible measures are adopted by customers, regardless of cost or customer preferences.

"Technical Reference Manual" or "TRM" means a deemed savings document that provides specific efficiency thresholds and formulas to use in calculating energy-efficiency savings.

"Total resource cost test" or "TRC" is a test of the cost-effectiveness of demand-side programs that compares the sum of avoided utility costs plus avoided probable environmental 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 resources. The TRC test shall be applied at the plan level rather than the component, program or measure level and shall be the deciding test to determine if a plan will be deemed cost-effective.

"Useful life" means the number of years a demand-side option will produce benefits as determined by the utility. For analysis purposes, the useful life of a demand-side option shall not exceed 20~~20~~ ~~35~~ years.

"Used for service" means a commission approved demand-side program which has been implemented and is delivering program measures to customers.

"Utility cost test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency option or program from the utility revenue requirement perspective. Present values are calculated using the utility's discount rate. Benefits
are the sum of the present values of each year's utility avoided capacity and energy costs (excluding the externality factor) over the useful life of the option or program. Costs are the sum of the present values of the utility's program costs, customer incentives, and any increased utility supply costs for each year of the useful life of the option or program.

AUTHORITY: 393.1075, RSMo 2009

3. Filing for Approval of Demand-Side Program Plans

PURPOSE: All electric utilities shall file an application for approval by the commission of its demand-side program plans which satisfy the requirements of this rule.

A. The utility shall demonstrate that its overall portfolio of ~~energy efficiency and demand response measure~~demand-side programs and the individual programs, with the exception of ~~measures~~ programs directed toward the hard-to-reach customer segments, are cost effective using the ~~total~~ TRC~~otal resource Resource cost Cost~~ test as the primary evaluation criteria. The utility shall demonstrate that its proposed ~~portfolio of~~Demand-Side Program Plan, as detailed in a set of ~~program~~ Program ~~templates~~Templates~~*~~, represents a diverse cross-section of opportunities for customers of all rate classes to participate in the programs.

B. The commission shall collectively approve all of the following before a utility may proceed with the implementation of ~~any of~~ its ~~proposed~~ Demand-Side ~~programs~~Program Plan:

~~1.~~i. The portfolio of programs to be included in the Demand-Side Program Plan – recognizing that future adjustments to any given individual program may be necessary based on actual field implementation experience. This portfolio of programs included in the Demand-Side Program Plan shall be~~—are~~ robust and adequately address all customer classes;

~~2.~~ii. The overall portfolio demand ~~reduction targets~~ and energy reduction ~~targets~~goals are ~~. These targets must be are~~ reasonable and represent progress towards all cost effective energy efficiency savings for the 3-year planning period;

~~3.~~iii. The overall portfolio budget, detailed by program, for the 3-year implementation period;

~~4.~~iv. A utility specific ~~cost recovery plan~~Demand-Side Investment Mechanism that will enable the utility to proceed with its ~~proposed portfolio of program~~ Demand-Side Program Plan~~s~~.

C.~~A.~~ In addition to the requirements of 4 CSR 240-2.060(1), applications for approval of demand-side program templates shall include the utility's Demand-Side Program Plans~~,~~ ~~supporting testimony,~~ and supporting work papers

D~~B~~. Each electric utility shall file with the commission its application for approval of its Demand-Side Program Plans as follows:

i. The ~~In any given year,~~ initial application~~s~~ for approval of Demand-Side Program Plans shall be filed with the commission ~~no later March 31st~~at any time ~~of each calendar year~~.

a. Initial Demand-Side Program Plans shall include existing demand-side programs that have been implemented and may include demand-side programs which have not been implemented but are included in the electric utility's preferred resource plan.

b. Initial plans shall include the same information for each program as specified in section G~~E~~.

c. Initial Demand-Side Program Plans will include multi-year programs and thereafter, will be updated on at least a triennial basis in the utility's next Demand-Side Program Plan filing.

ii. Thereafter, an application~~s~~ for approval of Demand-Side Program Plans shall be filed with the commission within six months of an electric utility's resource plan filing pursuant to 4 CSR-240-22.

E~~C~~. Relationship to resource plan. The process and results of the electric utility resource planning process of 4 CSR-240-22 shall serve as the primary analysis for determining what demand-side programs may be included in the electric utility's Demand-Side Program Plan. ~~Demand-side programs included or modified in the utility's Demand-Side Program Plan shall be deemed to have identified the savings required to meet a statutory goal of achieving all cost-effective demand-side savings.~~

F~~D~~. For programs filed as part of the electric utility's demand-side program plan, the electric utility is exempted from the provisions of 4 CSR 240-3.150 and 4 CSR 240-14.

G~~E~~. Demand-Side Program Plan content. At a minimum, each electric utility's Demand-Side Program Plan shall include the following:

i. Market potential assessment study (at time Demand-Side Program Plan filing) performed using both primary and secondary data (where agreeable with majority consent of the stakeholder advisory group described in Section 4 herein) for the utility's service territory to determine the technical potential, economic potential, maximum achievable potential and realistic achievable potential relative to a baseline forecast. Such market potential assessment study may be a set of collective documents that support the potential energy and demand savings within a utility's service territory whereas such studies shall be updated as appropriate at least every five years.

a. The market potential assessment study shall be adjusted to incorporate the reduced opportunity for demand-side savings resulting from customers who decide to exercise the Opt-Out Provisions described in Section 6 herein;

~~b. The utility~~

ii. Individual program templates that contain the following information:

a. The name of the program;

b. The customer class to which the program is targeted;

c. The strategy and objective of the program, including what the program will do and what barriers the program may help customers overcome;

d. The demand-side measures to be promoted by the program;

e. The technique(s) proposed to promote the program;

(i.) Customer marketing and outreach plan.~~,~~

(ii.) Programs may include incentives to encourage customers to make demand-side investments, if the incentives are cost justified.

(iii). Incentives may include leasing programs, product giveaways and direct financial inducements. Financial inducements may include, but are not limited to, rebates, discounted products and services, and low interest rate financing.

f. The scope of implementation, e.g., system-wide, partial system, or pilot programs:

(i.) Pilot demand-side programs may be included, if justified by the utility and approved by the commission.

~~(ii.) A pilot demand-side program design is distinct from other program designs in that it shall include explicit questions that the pilot will address; explicit evaluation, measurement and verification methods designed to address pilot questions, estimates of program costs and savings, a provisional cost effectiveness evaluation, and shall be of limited duration until reassessment after a predetermined periods.~~

g. The estimated annual energy and demand savings for each year the demand-side program is anticipated to produce benefits. Prior to development of a Technical Reference Manual, the estimated annual energy and demand savings shall be determined by the utility based on results of their most recent market potential assessment study or industry accepted study. ~~.~~After it is established, electric utilities shall use an approved statewide TRM to determine the deemed energy and demand savings for each year.

h. The implementation dates for initiating the program and a schedule of dates for reporting, evaluating, and concluding the program.

i. The ~~preliminary~~ budget for each program for each year of implementation plan itemized by proposed costs related to each program. ~~The proposed costs shall be identified as either direct charges or indirect charges.~~ The total program budget shall be categorized into:

(i.) Program Administrative costs;
(ii.) Program incentive costs;
(iii.) Estimated equipment costs;
(iv.) Estimated installation costs;
(v.) Evaluation costs;

which may include, but not be limited to, the following:

(a~~i~~.) Planning and design costs;
(b~~ii~~.) Market potential assessment study and other marketing research costs;
(c~~iii~~.) Administrative costs;
(d~~iv~~) Advertising and promotional costs;
(e~~v~~.) Customer incentive costs;
(f~~vi~~.) Estimated equipment costs;
(g~~vii~~.) Estimated installation costs;
(h~~viii~~.) Monitoring and evaluation costs;
(i~~x~~.) Miscellaneous costs; and
(j~~x~~.) Cost allocation of company staff versus contractor staff.~~(i.) ProgramAdministrative costs;~~
~~(ii.) Program incentive costs;~~
~~(iii.) Estimated equipment costs;~~
~~(iv.) Estimated installation costs;~~
~~(vii.) Evaluation costs;~~

j. A statement that a program is targeted to low-income customers or general education campaigns, if it is so targeted, in which case the program is not required to meet a cost-effectiveness test although such programs or general education campaigns will be evaluated for cost-effectiveness; If the program is targeted to low-income customers, the electric utility must also state how the electric utility will assess the effect of the program on issues affecting low-income customers, including, but not limited, to arrearages and/or disconnections.

k. A detailed description of the utility's avoided cost calculations and all underlying assumptions used in those calculations.

~~(i.) For assumptions involving uncertainty, the electric utility shall identify a range of values with, at a minimum, a high, base, and low case~~

l. The electric utility's estimations of the rate impacts and average bill impacts on its customers resulting from the electric utility's implementation of demand-side programs;
m. A description of each strategy, if any, used to minimize free riders.
n. A description of each strategy if any used to maximize spillover;
o. The proposed performance goals for peak demand and energy savings from utility implementation of cost-effective demand-side programs. The utility shall provide annual and total goals, by demand-side program, for three years subsequent to the year of the filing;
q. Complete documentation of the following for each program:

(i.) Maximum achievable potential;
(ii.) Realistic achievable;
(iii.) Total resource cost test;
(iv.) Utility cost test;
(v.) Ratepayer impact measure test;
(vi.) Participant test; and
(vii.) Societal test.

r. A description of any efforts to coordinate or jointly implement programs with other utilities or between gas and electric utilities where a measure or program results in both gas and electric savings;

iii. Variances. Upon request and for good cause shown, the commission may grant a variance from any Demand-Side Program Plan requirement imposed by this section. If the variance request is granted, the utility shall file a copy of the commission order with the utility's Demand-Side Program Plan.

AUTHORITY: 393.1075, RSMo 2009

4. Review of Demand-Side Program Plans

PURPOSE: Stakeholder advisory group participation in development of and Commission review and approval of a utility's demand-side program plan shall be governed by the following procedures:

A. Stakeholder advisory group. Each electric utility shall grant participation in its respective stakeholder advisory group to those parties that have an interest which is different from that of the general public and who may be adversely affected by a final decision arising from the approval of the Demand-Side Program Plan. At a minimum, the stakeholder advisory group shall meet ~~quarterly~~twice yearly. The electric utility shall provide all members of the stakeholder advisory group the opportunity to offer suggestions and comment on a draft of each Demand-Side Program Plan the utility proposes to file, and to review and comment on an existing approved plan.

B. Contested case proceeding. The filing of an application for approval of a Demand-Side Program Plan shall initiate a ~~contested~~ case ~~proceeding. All testimony, exhibits, and workpapers shall be filed with each application for approval of a Demand-Side Program Plan before the commission.~~ Likewise, an application to modify an approved Demand-Side Program Plan shall initiate a ~~contested~~ case ~~proceeding~~ before the commission. All supporting testimony, exhibits, and workpapers if filed by any party ~~must~~ should be cross-referenced to the Demand-Side Program Plan requirements. Any portion of any plan, application, testimony, exhibit, or workpaper which is based upon or derived from a computer program shall when filed include the name and description of the computer program, and all reasonably necessary data inputs and outputs associated with each such portion in hard copy and electronic format.

C. Procedural schedule. To facilitate completion of the ~~contested~~ case ~~proceeding~~ within six months from the date the application to approve or modify a demand-side program is ~~of~~ filed by an electric utility, a procedural schedule based on the following guidelines shall be established which may include testimony and a hearing, if requested by a party and determined by the commission to be appropriate. ~~:~~

~~i. Prepared direct testimony, exhibits, and work papers in support of the filing — date of initial filing.~~

~~ii. Testimony, exhibits, and work papers of all other parties — filed not later than seven weeks from the date of the initial filing.~~

~~iii. Electric utility response to proposals — filed not later than 11 weeks from the date of the initial filing.~~

~~iv. Hearing (cross-examination of all testimony) — initiated not later than 14 weeks after the initial filing.~~

~~v. Briefs of all parties — filed not later than 17 weeks after the initial filing.~~

~~vi. Reply briefs of all parties — filed not later than 18 weeks after the initial filing.~~

~~vii. Additional time may be granted a party upon a showing of good cause for the delay including, but not limited to:~~

~~a. Delay of completion of a previous procedural step.~~
~~b. Delays in responding to discovery requests.~~
~~c. Conflicts~~

~~viii. Settlements.~~

D. Commission Approval.

i. The commission shall approve ~~, modify~~ or reject the utility's Demand-Side Program Plan and any applicable demand-side program tariff sheets. If the commission rejects the Demand-Side Program Plan, it shall issue an order in which it states the reasons for rejecting the plan and set a schedule by which the electric utility may~~will~~ file a new plan addressing the reasons for rejection. ~~If the commission modifies a plan, it shall issue an order in which it outlines the modifications.~~

ii. A program filed under these rules shall not be implemented until the commission issues an order expressly approving the program.

iii. The commission may approve utility--specific settlements and tariff provisions to ensure that electric utilities can achieve the state goal of capturing all cost effective demand –side savings.

E. Modified plan—refiling. If the commission rejects ~~or modifies~~ a utility's Demand-Side Program Plan, the commission may ~~require the electric utility to file a modified plan and may~~ specify the minimum acceptable contents of the modified plan.

F. Variances. Upon request and for good cause shown, the commission may grant a variance from any Demand-Side Program Plan requirement imposed by this section. If the variance request is granted, the utility shall file a copy of the commission order with the utility's Demand-Side Program Plan.

~~G. Prudence reviews. The commission may conduct a contested case to evaluate the reasonableness and prudence of the utility's implementation of its Demand-Side Program Plan. The burden shall be on the electric utility to prove it has taken all reasonable actions to implement its approved Demand-Side Program Plan.~~

AUTHORITY: 393.1075, RSMo 2009

5. Modification of Demand-Side Programs

A. After an electric utility's Demand-Side Program Plan has been approved by the commission, the Demand-Side Program Plan may subsequently be modified during implementation, if the modification is approved by the commission. The electric utility may file an application for modification. The commission shall ~~, on its own motion, may~~ consider the application for modification of the Demand-Side Program Plan and budgets.

i. The electric utility may constrain or accelerate projected utility implementation of a program based on the utility's assessment of market potential. The utility may consider market factors including, but not limited to, market barriers to implementation of the program, the effects of rate impacts, lost opportunities which decrease future implementation of measures or programs, the non-energy benefits and detriments of programs, the strategic value of demand-side programs to the electric utilities, and other market factors it deems relevant.

B. The electric utility shall file an application to modify its Demand-Side Program Plan if any one of the following conditions occurs during the implementation of its plan and as identified in relation to the most recent Annual Demand-Side Program Report:

i. The total annual Demand-Side Program Plan budget changes by a factor of at least plus or minus twenty percent;

ii. The percent of annual budget per customer class or grouping has changed by a factor of at least plus or minus twenty percent;

iii. The implementation schedule of a program has changed by six months or more; or

iv. An approved program is eliminated or the utility desires to modify or add a new program to the plan.

C. All applications to modify shall be filed in the same case in which the commission approved the Demand-Side Program Plan. All parties to the case in which the Demand-Side Program Plan was approved shall be parties to the modification request, shall be served copies of the application to modify and shall have 14 days to file their objection to the modification; failure to file a timely objection shall be deemed agreement to the modification.

D. In addition to the requirements of 4 CSR 240-2.060(1), each application to modify an approved Demand-Side Program Plan shall include:

i. A statement of the proposed modification and the party's interest in the modification;

ii. An analysis supporting the requested modification;

iii. An estimated implementation schedule for the modification; and

iv. A statement of the effect of the modification on projected costs and benefits.

E. The Commission shall approve or reject the application for modification within 30 days of filing.

AUTHORITY: 393.1075, RSMo 2009

6. Customer Participation & Opt-Out Provisions

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:

i. The customer has one or more accounts within the service territory of the electric utility that has a demand of five thousand kilowatts or more in the previous twelve months;

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

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

B. The utility shall make available standard notification forms requesting all relevant information to determine customer eligibility to opt-out of participation in demand-side programs including a list of all corporate-owned electric accounts.

~~I~~i. Customers must submit a notification to opt-out no later than one month prior to the proposed implementation date of the 3-Year Demand-Side ~~SM~~ Program Plan.

ii. The utility shall notify the customer and commission of its acceptance, or rejection of a customer's notification to opt-out of participation in demand-side programs within 10 business days of when the customer notifies the utility of its election to opt out, unless the customer, withdraws its election before then. If utility rejects customer's notification due to customer not meeting the requirements above, customer has a right to file an appeal with the commission.

iii. Customer shall notify utility of any changes to the list of qualifying accounts within 30 days of corporation selling, purchasing, or closing a subsidiary or affiliate.

iv. Any notification to the electric utility to opt-out of the 3-Year Demand-S~~s~~ide Program Plan shall expire at the end of the 3-Year Program Plan~~implementation period~~. In the event a customer wishes to continue to opt-out of the next 3-Year Demand-S~~s~~ide Program Plan, the customer must resubmit such notification.

v. Any customer who opts-out shall continue to be allocated costs from any 3-Year Demand-Side~~SM~~ Program Plans the customer was eligible to participate in, but did not opt-out of, whether or not they participated in any of the Programs, until all costs have been recovered.

vi. Customers of a utility who opt-out of participation in demand-side programs offered by the utility shall be charged none of the costs for demand-side programs of the associated 3-Year Demand-S~~s~~ide Program Plan in accordance with the Missouri Energy Efficiency Investment Act (section 393.1075, RSMo 2009

Supp.) or this rule, nor shall any of the costs be assigned to any account of the customer or its affiliates and subsidiaries listed on the customer's notification form.

vii Customers who opt-out of participating in the demand-side programs of a utility shall still be allowed to participate in interruptible or curtailable rate schedules or tariff provisions offered by the electric utility.

AUTHORITY: 393.1075, RSMo 2009

7. Annual Demand-Side Program Reporting

PURPOSE: This rule establishes standards for annual reporting on an approved demand-side program plan by electric utilities.

A. Each electric utility shall file an annual report with the commission by March 31 following the completion of a calendar program~~on December 31 of each~~ year. At the minimum, the annual demand-side program report shall include:

i. If applicable, actual revenues collected under each D~~d~~emand-S~~s~~ide I~~i~~nvestment M~~m~~echanism;

ii. Actual amounts expended under each demand-side program, including incentive payments;

iii. A demonstration that the allocation of costs among customer classes did not unreasonably burden any particular customer class;

iv. The avoided costs and the techniques used to estimate those costs;

v. The economic net benefits resulting from an analysis of the demand-side programs, including the results of the total resource cost test, the utility cost test, the ratepayer impact measure test, the participant test and the societal test;

vi. For each program where one or more customers have opted out of the program pursuant to Section 393.1075.7, RSMo Supp 2009, a listing of the customer(s) who have opted out of participating in the program.

vii. Preliminary estimates of actual energy savings by program

B. The annual report shall be the format in which the utility informs the commission when each demand-side program is used for service and is eligible for inclusion in the Demand-Side Investment Mechanism as described in sections 9-12 of this rule.

C. Variances. Upon request and for good cause shown, the commission may grant a variance from any annual demand-side program reporting requirement imposed by this section. If the variance request is granted, the utility shall file a copy of the commission order with the utility's annual demand-side program report.

AUTHORITY: 393.1075, RSMo 2009

8. Evaluation, Measurement and Verification

A. The utility shall hire an independent contractor to perform evaluation, measurement and verification of the implementation of all approved programs included in each electric utility's Demand-Side Program Plan.

B. The selected evaluation, measurement and verification independent evaluator shall report final evaluation results simultaneously to the commission, the utility, and to stakeholders;

C. The commission shall designate an independent auditor to review the evaluation. The cost of the independent auditor shall be included in the Missouri Public Service Commission Assessment for each utility.

D. The evaluation budget shall not exceed 5% of the total budgeted for all demand-side programs. The cost of the commission designated auditor will not be included in this 5% and shall not exceed .25% of the total budgeted for all demand-side programs;

E. The utility and the EM&V contractor ~~commission~~ shall establish:

i. Evaluation goals;

a. Process evaluation;

b. Impact evaluation:

(i.) Lifetime gross and net peak demand and energy savings achieved under each program, and the techniques used to estimate savings impacts;

(ii.) A demonstration of the cost-effectiveness of the program

(a.) If a program is determined to be not cost-effective the electric utility shall identify the causes why and make the appropriate program modifications in its next Demand-Side Program Plan filing. The fact that a program proves not to be cost-effective shall not be grounds for disallowing cost recovery.

ii. An evaluation schedule;

iii. An evaluation methodology, including approaches for calculating gross and net energy savings.

F. Each utility shall interface and coordinate with the commission designated EM&V independent auditor and provide necessary data for all approved programs included in each electric utility's Demand-Side Program Plan.

G. The EM&V independent contractor~~evaluator~~ shall report its findings related to the previous ~~two-year program year~~evaluation period to the commission on behalf of the utility no later than six months after the ~~two-year~~ evaluation period concludes~~each program year~~. The evaluation period shall include no more than three years.

H. Variances. Upon request and for good cause shown, the commission may grant a variance from any EM&V~~evaluation, measurement and verification~~ requirement imposed by this section. If the variance request is granted, a copy of the commission order shall be filed with the evaluation, measurement and verification.

AUTHORITY: 393.1075, RSMo 2009

9. Demand-Side Investment Mechanism - General Provisions

A. In order for a program to qualify for inclusion in a demand-side investment mechanism, the program:

i. Shall be approved by the commission prior to implementation;

a. Program-related costs incurred prior to the electric utility's initial Demand-Side Program Plan shall not be included in the D~~d~~emand-S~~s~~ide I~~i~~nvestment M~~m~~echanism.

ii. Shall be implemented in accordance with the approved Demand-Side Program Plan, including projected savings;

iii. Shall be ~~included~~ reported in the Annual Demand-Side Program report;

iv. Shall, with the exception of programs targeted to low-income customers or general education campaigns, have energy and/or demand savings capable of measurement and verification and shall result in energy or demand savings and are beneficial to all customers in the customer class in which the program is proposed;

v. Shall be monitored and evaluated for cost-effectiveness;

a. If a program is determined to be not cost-effective the electric utility shall identify the causes why. That a program is not cost-effective shall not be sufficient grounds alone for disallowing cost recovery. However, the electric utility shall propose modification or termination of a program that fails to meet expected results.

vi. Shall undergo an evaluation as described in the approved Demand-Side Program Plan.

B. The Commission shall approve or ~~,~~reject~~, or modify~~ both the Demand-Side Program Plan described in Section 3 of this rule and the Demand-Side Investment Mechanism described in Sections 9, 10, 11 and 12 of this rule. The electric utility shall implement the approved Demand-Side Investment Mechanism in either a subsequent general rate case or a rider. If a general rate case is chosen, the Commission may implement the approved mechanism using interim rates until conclusion of the rate case.

i. As part of the approved Demand-Side Investment Mechanism to be implemented as discussed in this Section 9B~~-above~~, the commission shall approve such Demand-Side Investment Mechanism for demand-side programs that value demand-side investments at least equal to traditional investments in supply and delivery infrastructure.

a. In order to value demand-side programs at least equal to traditional investments in supply and delivery infrastructure, the Demand-Side Investment Mechanism shall be designed to recover the equivalent of all demand-side program costs and lost revenues on a timely basis through the investment mechanisms, separately or in combination, discussed in sections 10, 11 and 12 below.

b. Above and beyond the intention to recover such demand-side program costs and lost revenue~~-recoverys~~s, ~~such~~ the Demand-Side Investment Mechanism shall also provide utilities with timely earnings opportunities where investments in demand-side programs earn a return at least equal to those of traditional investments in supply and delivery infrastructure. Such return at least equal to those of traditional investments in supply and delivery infrastructure shall be at least equivalent to the equity return on rate base utilizing the utilities' most recent authorized return on equity.

ii. The costs and benefits of demand-side programs to each customer class shall be established in a rate case.

iii. In a general rate case proceeding, the commission may, when in the public interest, reduce or exempt the allocation of demand-side program costs to low income classes, as a subclass of residential service.

iv. All charges attributable to demand-side programs approved by the commission shall clearly be shown as a separate line item on bills to the utility's customers.

C. Duration of Demand-Side Investment Mechanism and requirement for general rate case. Once both the Demand Side Program Plan and the accompanying Demand-Side Investment Mechanism are 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, extension, or discontinuance of the Demand-Side Investment Mechanism in a general rate proceeding, although an electric utility may submit proposed rate schedules to implement periodic adjustments to its demand-side investment mechanism between general rate proceedings. The utility shall also be permitted to file for modifications to existing programs, add new programs or discontinue existing programs between general rate case proceedings.

AUTHORITY: 393.1075, RSMo 2009

10. Demand-Side Investment Mechanism - Cost Recovery

A. In conjunction with the commission approval of a Demand-Side Program Plan, utilities shall recover their costs to be expended to implement and evaluate demand-side programs by cost recovery mechanisms including, but not limited to, a Direct Expense Cost Recovery Approach~~, a Capitalization of Investments and Expenditures for Demand-Side Programs Approach~~ and an ~~Accelerated~~Expense Amortization ~~Depreciation on~~ Demand-Side Investments Approach.

i. Direct Expense Cost Recovery

a. The utility shall establish as part of the Demand-Side Program Plan, program goals and the expected expenses~~, including lost revenues,~~ to be incurred over the next three years. The average of the expected three-year program expenses~~, including lost revenues,~~ will be included in the utility'~~sies~~ cost of service. Program goals will establish performance targets and incentives. The Commission may also consider phased rates to accommodate substantial annual expenditure differentials.~~ Recovery of performance incentives in rates will occur after they are demonstrated to have been achieved.~~

b. Costs incurred after a Demand-Side Program Plan is approved but before included in customer rates~~, including lost revenues and performance incentives~~ shall be charged to a regulatory asset account and incur a carrying charge. The carrying charge shall be the utilities' current weighted average cost of capital utilizing the most recent authorized return on equity;

c. Costs will be adjusted to reflect the difference between the expenses in rates compared to the actual expenses accumulated in the regulatory asset account and trued-up at the time of the next rate case or with a rider. Actual expenses shall include program adjustments, expenditure timing, new programs introduced or eliminated.

~~ii. Capitalization of Investments and Expenditures for Demand-Side Programs~~

~~a. The utility shall establish as part of the Demand-Side Program Plan, program goals and the expected expenses to be incurred over the next three years. The average of the expected three-year program expenses will be included in the utilities cost of service. Program goals will establish performance targets and incentives. The Commission may also consider phased rates to accommodate substantial annual expenditure differentials.~~

~~b. Costs incurred after a Demand-Side Program Plan is approved shall be charged to a regulatory asset account and incur a carrying charge. The carrying charge shall be the utilities' current weighted average cost of capital utilizing the most recent authorized return on equity;~~

~~c. Costs will be adjusted to reflect the difference between the expenses in rates compared to the actual expenses accumulated in the regulatory asset account and trued-up at the time of the next rate case or with a rider. Actual expenses shall include program adjustments, expenditure timing, new programs introduced or eliminated.~~

~~iii.~~ ~~Accelerated~~Expense Amortization ~~Depreciation on Demand-Side Investments~~Cost Recovery

a. The utility shall establish as part of the Demand-Side Program Plan, program goals and the expected expenses to be incurred over the next three years. At the time of Demand-Side Investment Mechanism implementation the average of the expected three-year amortization of program expenses and the average of the expected return on rate base, utilizing at least the utility's most recent authorized weighted average cost of capital will be included in the utility's cost of service. The Commission may also consider phased rates to accommodate substantial annual expenditure differentials.

~~The utility shall establish as part of the Demand-Side Program Plan, program goals and the expected expenses to be incurred over the next three years. The average of the expected three-year program expenses will be included in the utilities cost of service. Program goals will establish performance targets and incentives. The Commission may also consider phased rates to accommodate substantial annual expenditure differentials.~~

b. Costs incurred after a Demand-Side Program Plan is approved but before included in customer rates shall be charged to a regulatory asset account and incur a carrying charge. The carrying charge shall be the utilities' current weighted average cost of capital utilizing the most recent authorized return on equity;

c. Costs will be adjusted to reflect the difference between the expenses in rates compared to the actual expenses accumulated in the regulatory asset account and trued-up at the time of the next rate case or with a rider. Actual expenses shall include program adjustments, expenditure timing, new programs introduced or eliminated.

~~;~~

iii~~iv~~. Other Acceptable Cost Recovery Mechanism~~s~~

a. The utility shall also, at its discretion, be permitted to seek cost recovery utilizing other recovery mechanisms including, in combination with those outlined in this Section 10 above and without limitation~~;~~, ~~capitalization of investments in and expenditures for demand-side programs,~~ rate design modifications~~, accelerated depreciation on demand-side investments, and allowing the utility to retain a portion of the net benefits of a demand-side program for its shareholders~~ ~~that include decoupling.~~.

B. Utilities shall maintain accounting plans and procedures to account for all demand-side program costs in accordance with generally accepted accounting principles.

C. If a general rate case is used as the mechanism to recover~~y~~ demand-side program costs, in a subsequent general rate case~~s~~, the utility will reflect the costs of the next three year average of program costs~~, including lost revenues, and adjustments to reflect past performance incentives earned, discussed in Section, 10. A.~~ on a going forward basis.

D. If a rider is used as the mechanism to recover demand-side program costs, the utility will project the following year's annual program costs~~, including lost revenues,~~ and recover such program costs~~, including lost revenues,~~ on a concurrent basis throughout the following year.~~ The rider will also recover program cost adjustments to reflect past performance incentives earned, discussed in Section, 10. A. on a going forward basis.~~

AUTHORITY: 393.1075, RSMo 2009

11. Demand-Side Investment Mechanism - Lost Revenues

A. Upon approval of a Demand-Side Program Plan and in either a ~~subsequent~~ general rate case proceeding or via a rider, as discussed in Section 9~~(B)~~, each utility ~~may~~ shall file an application to recover lost revenues with a Lost Revenue Adjustment Mechanism as detailed in this Section 11,~~ or~~ with a Retention of a Portion of Net Benefits, as detailed in Section 12 herein, or with decoupling to ensure that the success of its demand-side program does not cause it financial harm and encourages investment in demand-side programs.

B. If a general rate case is used as the mechanism to recover demand-side program costs, the utility shall establish as part of a rate case the lost revenues to be incurred over the next three years. The average of the expected three-year lost revenues will be included in the utility's~~ies~~ cost of service;

i. Lost revenues will be adjusted to reflect the difference between the lost revenues in rates compared to the actual lost revenues accumulated in the regulatory asset account and trued-up at the time of the next rate case or with a rider.

C. If a rider is used as the mechanism to recover lost revenues, the utility will project the following year's lost revenues and recover such lost revenues, on a concurrent basis throughout the following year.

AUTHORITY: 393.1075, RSMo 2009

12. Demand-Side Investment Mechanism - Performance Incentives

A. In conjunction with the commission approval of a Demand-Side Program Plan, utilities shall recover a performance incentive utilizing mechanisms including, but not limited to, Retention of a Portion of Net Benefits Approach.

i. Retention of a Portion of Net Benefits

a. The utility shall establish as part of the Demand-Side Program Plan, the expected present value of the net benefits to be created over the next three years. The utility shall seek to receive revenue equal to a portion of the net benefits produced by the Demand-Side Program Plan such that the annual value of this revenue, at target performance, if desired compensate the utility for average lost revenues and the average of the expected return on rate base, utilizing the utility's most recent weighted average cost of capital. The average of the expected three-year portion of net benefits will be included in the utility's cost of service. Program goals will establish performance targets and incentives for performance above or below such established targets.

b. The portion of net benefits shared will be adjusted to reflect the difference between the net benefits in rates compared to the actual net benefits and trued-up at the time of the next rate case or with a rider.

~~A. Retention of a Portion of Net Benefits~~

~~A~~B. The utility shall file proposed performance goals for demand and energy savings from utility implementation of cost-effective demand-side programs. The utility shall provide annual and total goals, by demand-side program, for three years subsequent to the year of the filing.

~~B~~C. Upon approval of a Demand-Side Program Plan and in either a subsequent general rate case proceeding or via a rider, as discussed in Section 9~~(B)~~ each utility may file an application to include, as part of its proposed demand-side investment mechanism a process to improve its earnings opportunity for achievements under its D~~d~~emand-S~~s~~ide P~~p~~rogram P~~p~~lan.

~~C~~D. If a general rate case is used as the mechanism to recover demand-side program costs, the utility shall establish, as part of a rate case, the performance incentives to be earned over the next three years. As described in Section 12(B), program goals will establish performance targets and incentives. Recovery of performance incentives in rates will occur after they are demonstrated to have been achieved. Any utility's performance incentive will be included in the utility's regulatory asset until rates are adjusted.

~~D~~E. If a rider is used as the mechanism to recover performance, the utility will project the following year's performance incentives and recover such performance incentives, on a concurrent basis throughout the following year.

AUTHORITY: 393.1075, RSMo 2009

13. Tax Credits and Disclosures

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

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) of this section 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 customers who have participated~~participants enrolled~~ in ~~all~~ any demand-side programs offered by the utility when such program offers a monetary incentive to the customer including the following information: the name of the participant or the names of the principles if for a company, the property address and the amount of the monetary incentive received. Upon request, by the commission, the utility shall disclose participant information to the commission.

AUTHORITY: 393.1075, RSMo 2009

14. Records

A. All demand-side programs are subject to inspection and audit by the commission and commission staff.

B. All records of demand-side programs shall be maintained in sufficient detail to permit a thorough audit and evaluation of all program costs and program performance.

C. Nothing in this rule limits the existing authority of the Public Service Commission of Missouri.

AUTHORITY: 393.1075, RSMo 2009