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## **Demand-Side Programs Rule Proposed by MDNR, NRDC and GRELC**

### **1. Policy Objectives**

*PURPOSE: This rule states the public policy goals governing the Commission's implementation of the Missouri Energy Efficiency Investment Act of 2009 (section 393.1075 RSMo Supp 2009) by this chapter.*

- A. Missouri's goal is to achieve all cost-effective demand-side savings in the electricity its residents and businesses use.
- B. To help achieve this goal, Missouri's policy is to value demand-side investments as 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. This policy includes:
  - (1) Providing timely cost recovery for utilities;
  - (2) Ensuring 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) Providing timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings.

*AUTHORITY: 393.1075, RSMo 2009*

### **2. Definitions**

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

“All cost-effective demand-side savings” means the economic potential for demand-side savings over a given time period, using the societal cost test as the basis for a determination of cost-effectiveness.

“Avoided cost” means the cost reductions obtained by lowering the demand for existing and new supply resources, including the cost of obtaining and maintaining the capacity to generate electricity, the cost of producing electricity, and the cost of delivering electricity.

“Commission” means the Public Service Commission of Missouri.

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

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“Demand Response” means measures that cause customers to decrease peak demand or shift demand to off-peak periods.

“Discount rate” means the factor applied to express future costs or reductions in cost in current dollars.

“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 and measurement” mean the performance of studies and activities intended to determine the savings, associated with measures or Programs, that customers are experiencing over time, the determination of free riders and spillover effects associated with Programs, and other matters as may be identified such as the effectiveness of Program processes.

“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 of program participants.

“Interruptible or curtailable rates” means rates under which the charges reflect the exchange value of the customer’s agreement to allow the electric utility to withdraw the supply of electricity under certain specified conditions.

“Measure” means any physical thing or identifiable action the implementation of which results in the same or better outcome with less energy.

“Net savings” means gross savings as adjusted by net-to-gross factors.

“Net-to-gross factors” means the positive or negative adjustments to measure or Program savings resulting from identification of free riders or spillover effects, or other considerations established pursuant to evaluation and measurement.

“Participant cost test” means an economic test used to compare the present value of benefits to the present value of costs over the useful life of a program from the participant’s perspective. 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 program. Costs are the sum of present values of the customer participation costs (including initial capital costs, ongoing operations and

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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 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 program designed as a test or trial to demonstrate the effectiveness of a full program.

“Plan” means a Demand-Side Savings Plan subject to this rule.

“Plan period” means the ten-year period starting with the first calendar year following filing of the Plan.

“Plan Modification” means any substantive change to a Plan or Program within a Plan. For purposes of this rule, a change shall not be considered substantive if it changes the overall Plan budget by less than plus or minus 20%, changes a program's funding, design or delivery such that the Program costs change by less than plus or minus 20%, or shifts budgeted funds among Programs by less than plus or minus 20%.

“Plan Portfolio” means the programs within a utility's Plan that collectively must meet the Total Resource Cost test. The Plan Portfolio does not include programs designed to achieve demand-side savings for low income utility customers or pilot programs.

“Present value” means the current dollar costs or reductions in cost calculated by applying a discount factor to future costs or reductions in cost.

“Program” means any demand-side program including a pilot program, offered 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 interruption or curtailment of load. A program is not a promotional practice subject to 4 CSR 240-14-010 et seq.

“Program participant” means a customer or any other person eligible to participate in a Program.

“Program year” means a calendar year, or portion thereof if a Program begins partway through a year, during which the utility delivers a Commission approved program.

“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 program from a rate level or electric utility's bill perspective. Benefits are the sum of the present values of utility avoided

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capacity, energy and delivery costs (excluding the externality factor) and any revenue gains due to the program for each year of the useful life of the program. Costs are the sum of the present values of utility increased supply costs, revenue losses due to the program, utility program costs, and customer incentives for each year of the useful life of the 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.

“Societal 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 a program from a societal perspective. Benefits are the sum of the present values of the utility avoided capacity, energy and delivery 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 program.

“Total resource cost test” or “TRC” is a test of the cost-effectiveness of 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 to the Plan Portfolio and shall be the basis upon which the Commission determines that the Plan is cost-effective and that the programs are beneficial to all customers in the customer class for which the utility is proposing them, regardless whether all customers use the programs.

“Useful life” means the number of years a program will produce benefits.

“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 a program from the utility revenue requirement perspective. Benefits are the sum of the present values of each year's utility avoided capacity, energy and delivery costs (excluding the externality factor) over the useful life of the program. Costs are the sum of the present values of the utility's program costs and any increased utility supply costs for each year of the useful life of the program.

“Verification” means methods and practices by which a utility determines, within a Program year, that customers have installed measures delivered under the Program, including such methods as post-inspections, surveys, and documentation of paperwork. Such methods may be based on a statistically valid sample where appropriate.

“Verified gross savings” means gross savings for which verification exists.

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“Verified net savings” means net savings for which verification exists.

*AUTHORITY: 393.1075, RSMo 2009*

## **3. Plans**

*PURPOSE: The rule specifies the content of the demand-side program plans electric utilities will file for Commission approval.*

### A. Plan Filing Schedule

1. The Commission will set a staggered schedule for initial Plan filings such that the last utility’s plan is reviewed and ready for implementation no later than [date]
2. Utilities shall file a new Plan every three (3) years, no later than six (6) months prior to the beginning of the year for which the new Plan will be effective.

### B. Plan Content Regarding Demand-Side Savings

1. Market potential studies.
  - a) A Plan filing must include a market potential study completed or updated not sooner than six (6) months prior to the date the utility files a Plan. An updated study is acceptable only if the underlying data and analysis are no older than six (6) calendar years.
  - b) The design and execution of the study shall conform to the evaluation standards for Market Potential Studies established in the Technical Resource Manual.
  - c) The study shall include a comprehensive list of cost-effective measures for which there is a positive technical potential for energy savings in the utility’s service territory. The study shall include the broadest possible list of potential measures.
  - d) Minimum requirements for market potential studies:
    - i. Preparation by an independent third party.
    - ii. Assessment of the potential for cost-effective demand-side savings in a utility’s service territory over the Plan period. For purposes of this potential, the study shall use the societal cost test.
    - iii. Clear description of the process used to identify potential measures and groups of measures for consideration and identification of any significant assumptions in this process.
    - iv. Statement of the projected costs and energy and demand savings associated with each measure or group of measures covered by the study. The study shall base the costs and savings on the best available information, including but not limited to actual values

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experienced by the utility that is the subject of the study, utilities operating in similar markets, and other third party studies.

- v. Supply curves for each measure or, where logical, groups of measures.
2. Baseline forecast.
    - a) A Plan must include a load forecast covering the Plan period. The forecast shall be the same as that used in the utility's most recent Integrated Resource Plan filing pursuant to 4 CSR 240-22.030, updated as necessary for significant changes.
    - b) Minimum requirements for the baseline forecast:
      - i. Identification of the methodology used in making the forecast;
      - ii. Identification of all major assumptions used by the methodology;
      - iii. Specification of the method and assumptions by which the forecast accounts for naturally occurring demand-side savings;
      - iv. Specification of the method by which the forecast accounts for any changes in building standards or appliance and equipment codes during the Plan period; and
      - v. Identification of any changes made to the Integrated Resource Plan filing forecast.
  3. Demonstration that the Plan will achieve all cost-effective demand-side savings.
    - a) The utility shall explain in quantitative and qualitative terms how the Plan Portfolio achieves all cost-effective demand-side savings over the Plan period.
    - b) For the following years, the Commission shall deem the utility to have made a presumptive showing that the Plan makes sufficient progress toward reaching the goal of all cost-effective demand-side savings if the Plan achieves the following annual incremental savings targets:
      - i. By 2012: 0.7% of total annual kwh sales and 1% of total peak demand;
      - ii. By 2013: 0.9% of total annual kwh sales and 1% of total peak demand;
      - iii. By 2014: 1.1% of total annual kwh sales and 1% of total peak demand;
      - iv. By 2015: 1.3% of total annual kwh sales and 1% of total peak demand;
      - v. By 2016: 1.5% of total annual kwh sales and 1% of total peak demand;
      - vi. By 2017: 1.7% of total annual kwh sales and 1% of total peak demand;

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- vii. By 2018: 1.9% of total annual kwh sales and 1% of total peak demand; and
  - viii. By 2019 and for subsequent years: 2% of total annual kwh sales and 1% of total peak demand each year.
  - c) For purposes of this presumption, the utility shall use the baseline forecast, reduced by the energy and demand associated with any customers who have opted-out pursuant to the provisions of section 7 of this rule.
  - d) The Commission may consider evidence and arguments that the targets above are not consistent with a finding that the Plan will achieve all cost-effective demand-side savings; however, the proponent of such evidence and argument will bear the burden of proof.
4. Demonstration of Cost-effectiveness
- a) Cost-effectiveness shall be determined for the Plan Portfolio.
  - b) A utility shall at a minimum show the calculation of the TRC for the Plan Portfolio. The utility may also show the calculation of other tests of cost-effectiveness, including:
    - i. Utility resource cost
    - ii. Participant cost
  - c) The cost-effectiveness demonstration shall include a detailed description of the utility's avoided cost calculations and all assumptions used in the calculation. To the extent that the portfolio 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 cost.
  - d) To the extent that programs in the Plan include contributions by participating customers to cover program costs above the level that is cost-effective, or funding through tax or other governmental credits or incentives specifically designed for that purpose, utilities shall ensure that the cost-effectiveness tests used do not consider costs covered in such a manner.
5. Estimates of the effect of the Plan on customer rates and average bills over the Plan period and lifetime savings, if longer.
6. Program descriptions. The Plan shall describe, for each program, by program year:
- a) Customers targeted;
  - b) Measures included;
  - c) Proposed promotional techniques, including incentives, rebates and other;
  - d) Projected gross and net energy savings;
  - e) Projected gross and net demand savings;
  - f) Projected net-to-gross factors;

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- g) Size of the potential market and projected penetration rate;
  - h) Verification method(s);
  - i) Evaluation and measurement plans;
  - j) Budget information, separated into:
    - i. Planning and design costs;
    - ii. Administrative costs;
    - iii. Advertising and promotional costs;
    - iv. Customer incentive costs;
    - v. Equipment costs;
    - vi. Installation costs;
    - vii. Monitoring and evaluation costs; and
    - viii. Miscellaneous costs.
  - k) A description of any strategies used to minimize free riders; and
  - l) A description of any strategies used to maximize spillover.
7. Tariff sheets. The Plan shall include all necessary implementing tariff sheets.
8. Pilot Programs. Plans may include pilot programs and experimental programs designed as research and development. For pilot programs, utilities shall provide as much of the information required under subsection 4 as is practicable and shall, in addition, include explicit questions that the pilot will address; the means and methods by which the utility proposes to address the pilot's questions; a provisional cost effectiveness evaluation; and a proposed duration for the pilot.
9. General education campaigns. The Plan shall describe any general education program the utility intends to run during the Plan period. The costs of general education programs may not exceed 3 percent of total Plan spending.
10. Cross-fuel requirements. It is the Commission's policy to encourage general education and demand-side savings programs that address all of a customer's use of energy in a given structure. To that end, the Plan shall describe the utility's efforts to develop joint general education and demand-side savings programs with utilities offering other fuels (including electricity, natural gas, propane and heating oil) within its service territory and to coordinate any relevant non-joint programs.
- C. Other Plan Content. A Plan may include any or all of the following:
- 1. Cost recovery mechanism(s) meeting the requirements set forth in section 11.
  - 2. Means of ensuring that utility financial incentives are aligned with helping customers use energy more efficiently, in a manner that sustains or enhances utility customers' incentives to use energy more efficiently and that meet the requirements set forth in section 12.



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3. Proposals under which the utility will have a timely earnings opportunity associated with measurable and verifiable efficiency savings and that meet the requirements set forth in section 13.

## **4. Collaboration**

*Purpose: This rule sets forth the Commission's policy to encourage collaboration in the development and implementation of Plans and consequences associated with engaging in such efforts.*

- A. Policy. It is the policy of the Commission to encourage utilities and stakeholders to collaborate in the development and implementation of Plans, including but not limited to:
  1. Design of market potential studies;
  2. Cost-effectiveness testing;
  3. Program and Portfolio design;
  4. Design and review of verification methods and results and evaluation and measurement methods and results;
  5. Plan modifications; and
  6. Annual reporting.

To ensure the most efficient use of participants' time, the best use of all utilities' experience with Plans, and robust discussion, the Commission encourages utilities to coordinate to form one state-wide collaborative.

### **B. Collaboration Guidelines.**

1. Utilities must retain an independent third party to serve as the collaborative's leader, and be responsible for organizing, facilitating, and recording collaborative meetings.
2. The collaborative leader shall prepare meeting agendas based on input from collaborative participants. Agendas may propose time for both individual utility topics as well as topics of statewide interest and concern.
3. The collaborative leader shall prepare minutes of each meeting, allowing all participants an opportunity to review and comment on the minutes.
4. Collaborative groups should strive to include representatives from all interested groups.
5. Meetings of the collaborative:
  - i. Should be publicly announced and open to any interested person
  - ii. May be structured to ensure that active participants have the opportunity to interact on necessary matters.

- C. Collaborative Costs. Utilities may include in their Plan budgets the reasonable costs of supporting a collaborative group per this section.

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- D. Collaborative review and consensus proposals
  - 1. Utility filings that demonstrate, through meeting minutes, collaborative review and consideration of the matters covered by the filing may receive expedited review.
  - 2. Utility filings for Commission action under these rules that demonstrate through meeting minutes that the matter of the filing represents the consensus of the collaborative may receive summary review.
  
- E. The collaborative shall compile and provide reports to the Commission as needed. In addition, issues that cannot be resolved in the collaborative may be presented to the Commission for review and resolution.

### **5. Process for Plan Approval**

*Purpose: this Rule sets forth the procedures the Commission will follow in acting on a utility Plan.*

- A. A utility shall file its Plan along with an application pursuant to 4 CSR 240-2.060(1) requesting its approval and all testimony, exhibits, and workpapers, cross-referenced to the Plan. Any portion of the Plan, application, testimony, exhibits, or workpapers that is based upon or derived from a computer program shall 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.
  
- B. The Commission shall open a case in which to consider and approve, modify or reject the Plan.
  
- C. The Commission shall set a procedural schedule and provide an opportunity for a hearing on the Plan designed to allow it to take action on the Plan within six (6) months of its filing, or within four (4) months if the filing demonstrates pursuant to section 4(D) that a collaborative reviewed and had an opportunity to provide comment on all pertinent sections of the Plan filing and that the utility considered all such comments in preparing the final filing. To facilitate completion of the proceeding within this period, the following scheduling guidelines apply:
  - 1. Prepared direct testimony, exhibits, and workpapers in support of the filing—date of initial filing.
  - 2. Testimony, exhibits, and workpapers of all other parties—filed not later than seven weeks from the date of the initial filing.
  - 3. Utility and other party responses to each other—filed not later than 11 weeks from the date of the initial filing.

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4. Hearing (cross-examination of all testimony)—if necessary, initiated not later than 14 weeks after the initial filing.
  5. Briefs of all parties—filed not later than 17 weeks after the initial filing.
  6. Reply briefs of all parties—filed not later than 18 weeks after the initial filing.
- D. Parties Involvement. Parties may propose approval, modification, or rejection of a utility’s Plan. All testimony, exhibits, and work papers shall be filed with any proposal. The testimony, exhibits, and workpapers of the party shall include, if applicable:
1. An analysis showing why rejection of the Plan is appropriate;
  2. A statement of any proposed modification to or alternate Plan and why approval thereof is appropriate;
  3. An estimated implementation schedule for any modification to or alternate Plan; and
  4. A statement of the projected costs and benefits and cost-effectiveness resulting from any modification to or alternate Plan and the amount of difference from the utility’s projected costs, benefits and cost-effectiveness.
- E. Commission Action.
- a) The commission shall approve, modify or reject the Plan and any applicable Program tariff sheets.
    - a) If the commission rejects the Plan, it shall issue an order in which it states the reasons.
    - b) If the commission modifies a plan, it shall issue an order in which it outlines the modifications and states the reasons for those modifications.
  2. In the event of rejection or modification, the Commission shall set a schedule designed to allow it to take action on the utility’s Plan modifications that address the Commission’s reasons for rejection or modification within two (2) months of the Commission’s order on the Plan.
- F. Variances. Upon request and for good cause shown, the commission may grant a variance from any Plan requirement imposed by this section. If the variance request is granted, the utility shall file a copy of the commission order with its Plan.

### **6. Annual Reporting**

*Purpose: This rule sets forth the annual reporting requirements for utility actions under an approved Plan.*

- A. Timing. Utilities shall file an Annual Report containing the matters described in subsection B within 120 days from the end of each program year.

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- B. Content. The Annual Report shall include, for the program year covered:
  - A. Actual expenditures under the Plan for each Program, as incurred:
    - a) Planning and design costs;
    - b) Administrative costs;
    - c) Advertising and promotional costs;
    - d) Customer incentive costs;
    - e) Equipment costs;
    - f) Installation costs;
    - g) Monitoring and evaluation costs; and
    - h) Miscellaneous costs.
  - B. A qualitative description of experience with the Program during the reporting year.
  - C. Verified net energy and demand savings under each Program.
    - a) Verified net savings per measure or program shall be based upon the approved Plan and presented both on an annualized and lifetime basis.
    - b) If the utility has completed evaluation and measurement with respect to any measure or Program during the reporting year, it shall show the effect of the results on the Plan estimates.
  - D. Comparison of the verified net savings to the approved Plan goals for the reporting period. For purposes of this comparison, the utility shall report the verified net savings compared to both the baseline forecast and the actual energy and demand for the reporting period.
  - E. The results of any evaluation and measurement completed during the program year.
  - F. Any modifications to the Plan for which the utility requests Commission approval.
  - G. The utility's affirmation that implementation of the Plan will achieve all cost-effective demand-side savings for the Plan period. If the utility cannot so affirm, it must request the modifications necessary to allow it to make the affirmation.
  - H. Description of the work, findings and decisions of any collaborative pursuant to section 4 of these rules.
- C. Comment on the Annual Report. Interested persons may provide written comments to the Commission on the contents of the utility's Annual Report within 60 days of its filing.
- D. Variances. Upon request and for good cause shown, the commission may grant a variance from any requirement imposed by this section. If the variance request is granted, the utility shall file a copy of the commission order with its Annual Report.

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## **7. Plan Modifications**

*Purpose: this rule sets forth the filing requirements for any person, including a utility, proposing to modify an approved Plan and the process by which the Commission will consider such proposals.*

- A. A utility shall propose a Plan Modification for changes outside of the parameters included in the definition of Plan Modification. A utility or any interested person may propose a Plan modification at any time. For any such modification, the proponent shall specify:
  - 1. The modification requested;
  - 2. The qualitative and quantitative reasons underlying the requested modification;
  - 3. The effect of the modification on the Plan's ability to achieve all cost-effective demand-side savings and on the Plan Portfolio's cost-effectiveness; and
  - 4. Any other information described in section 2 of these rules relevant to the requested modification.
  
- B. Commission review of Plan Modifications. The Commission shall set a procedural schedule and provide an opportunity for a hearing on Plan Modifications designed to allow it to take action on such Plan Modifications within three (3) months of their filing, or within two (2) months if the filing demonstrates that a collaborative group under section 4 reviewed and had an opportunity to provide comments on the modifications and that the utility considered all such comments in preparing its request. To facilitate completion of the case within this period, the following scheduling guidelines apply:
  - 1. Prepared direct testimony, exhibits, and workpapers in support of the modification(s)—date of initial filing.
  - 2. Testimony, exhibits, and workpapers of all other parties—filed not later than three (3) weeks from the date of the initial filing.
  - 3. Utility and other party responses to proposals—filed not later than five (5) weeks from the date of the initial filing.
  - 4. Hearing (cross-examination of all testimony)—if necessary, initiated not later than six (6) weeks after the initial filing.
  - 5. Briefs of all parties—filed not later than seven (7) weeks after the initial filing.
  - 6. Reply briefs of all parties—filed not later than eight (8) weeks after the initial filing.
  
- C. Commission Action on Plan Modifications.
  - 1. The commission shall approve, change or reject the proposed modifications and any applicable Program tariff sheets.
    - a) If the commission rejects the modifications, it shall issue an order in which it states the reasons.

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- b) If the commission changes the modifications, it shall issue an order in which it outlines its changes and states the reasons for those changes.
2. In the event of rejection or change, the Commission shall set a schedule designed to allow it to take action on the utility's Plan modifications that address the Commission's reasons for rejection or modification within one (1) month of the Commission's order on the modifications.

### **8. Customer Opt-Out**

*Purpose: This rule provides the process for a qualifying customer to provide notice to a utility of its decision not to participate in any Programs and the implications of such notice.*

- 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 five thousand kilowatts or more;
  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, a coincident demand of two thousand five hundred kilowatts or more, 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. Content and delivery of notice.
  1. A notice shall:
    - a) State the customer's name;
    - b) Identify the location(s) and utility account numbers of accounts for which the customer is requesting to opt out from Plan programs and costs;
    - c) Demonstrate that the customer qualifies for opt-out.
  2. Customers providing such notice shall send a copy to:
    - a) The utility from whose Plan they are opting out; and
    - b) The Commission, which shall maintain a copy of the notice in a place accessible by all interested persons for so long as the notice remains in effect.
- C. Timing and Effect.
  1. A notice shall be received no sooner than October 1 and not later than December 1 to be effective for the following calendar year. For that calendar year and each such calendar year until the customer revokes the notice pursuant to section E of this rule, none of the costs of demand-side measures of an electric corporation offered under this section or by any other authority, and no other charges implemented in accordance with this section, shall be assigned to any account of the customer, including its affiliates and subsidiaries.

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2. If a customer has participated in and received benefits under one or more Programs on or after August 2009, it is not eligible to opt out until the later of [five] years or the estimated useful life of the savings under the Program(s) in which it participated.
3. 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.

### D. Contested notices.

1. Any interested person may contest an opt-out notice within twelve (12) months of its filing with the Commission on the grounds that the filing customer does not qualify for opt-out. The complainant bears the burden of proof of any such claim.
2. The Commission shall provide notice and a hearing in resolving such complaints.

### E. Revocation. A customer may revoke an opt-out by filing a suitable notice with the affected utility and the Commission not less than twelve (12) months in advance of the year for which it will to become eligible for Plan costs and benefits.

*AUTHORITY: 393.1075, RSMo 2009*

## **9. Verification, Evaluation and Measurement**

*Purpose: This rule explains authority, responsibilities and procedures for verification, evaluation and measurement.*

### A. Policy. It is the policy of the Commission to encourage:

1. Robust evaluation and measurement of Programs for the dual purposes of
  - a) Improving the planning for and design of future efforts to achieve all cost-effective savings; and
  - b) Ensuring that reported savings amounts used for various regulatory purposes are sound and supportable.
2. Efficient use of evaluation and measurement spending, including coordination and shared evaluations across utilities and Programs where possible.
3. Collaboration among utilities and stakeholders in the design of verification, evaluation and measurement plans, in the selection of independent firms to provide the services required to fulfill such plans, and in the review of the results obtained by the independent firms providing such services.

### B. Verification. Utilities are responsible for identifying, executing, and reporting on verification of each approved Program. The Commission may exercise all appropriate oversight of this activity, including but not limited to auditing utilities' verification processes or results.

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### C. Measurement and Evaluation.

1. Utilities are responsible for identifying, executing, and reporting on measurement and evaluation on each approved Program. The Commission may exercise all appropriate oversight of this activity, including but not limited to auditing (monitoring) the design, implementation, or results of such studies, or engaging in its own measurement and evaluation studies.
2. Selection of independent firm(s) for services. A utility shall review with a collaborative under section 4 or a stakeholder group assembled for purposes of this section which shall include at least one member of the Staff of the commission:
  - a) The criteria by which it proposes to select an independent firm(s) for verification, measurement, and/or evaluation services; and
  - b) The contract(s) under which the successful independent firm(s) will provide services, including a description of the scope and content of service, which shall be consistent with the verification, evaluation and measurement components of the approved Plan, and the timing and methods for supervision of and interaction with the independent firm.

The utility will record and provide a response to comments and suggestions made by members of the collaborative or stakeholder group.

3. Communications and Interim Reports. The independent firm(s), as a condition of being awarded contracts for services, shall agree to:
  - a) Maintain a record of substantive communications received during their verification, evaluation and/or measurement process(es) from the utility or any member of the collaborative or stakeholder group formed under subsection (C)(1).
  - b) Provide interim reports at intervals specified in the contract simultaneously to the utility or utilities and members of the collaborative or stakeholder group formed under subsection (C)(1).
  - c) Provide a draft report simultaneously to the utility or utilities and members of the collaborative or stakeholder group formed under subsection (C)(1) and take comments on such draft report from any recipient.
  - d) Provide a final report simultaneously to the utility or utilities and members of the collaborative or stakeholder group formed under subsection (C)(1).

### D. Use of Results of Evaluation and Measurement.

1. Estimates of program savings will be derived from the measure lists, savings estimates and net-to-gross ratios contained in the Technical Resource Manual described in Section 10.
2. Where a Program design and its delivery methods are relatively stable over time, *and* a Missouri evaluation of that program has estimated a net-to-gross ratio, that ratio will be used prospectively for any purpose that requires use of verified net savings until the Program year following an evaluation that estimates a new net-to-gross ratio.



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3. For existing and new programs not yet evaluated, and previously evaluated programs undergoing significant changes, either in the program design or delivery, or changes in the market itself, the estimated net-to-gross ratio determined pursuant to the results of an independent firm(s)' study will apply to savings from that program year unless:
  - a) The program design and market are understood well enough to reasonably accurately estimate an initial net-to-gross (*e.g.*, based on evaluated programs elsewhere); or
  - b) It is determined that the savings and benefits of the program are not sufficient to devote the evaluation resources necessary to better estimate a net-to-gross ratio. The utility or a party may request in the Annual Report process for that Program year that the Commission postpone application of any such new estimated net-to-gross ratio to the subsequent Program year for good cause shown. The Commission shall decide the matter after notice and an opportunity for a hearing.

### **10. Technical Resource Manual**

*Purpose: this rule specifies the contents and preparation of a Missouri-specific manual and data base containing minimum standards for Missouri verification, evaluation, and measurement practices and minimum standards for estimating savings values for specific measures.*

- A. Commission staff will develop and maintain the Technical Resource Manual (TRM) working in collaboration with a group consisting of Commission staff, Commission-appointed evaluators, the Office of Public Counsel, the Missouri Department of Natural Resources, participating Missouri gas and electric utilities, and other interested parties.
- B. Contents and Revision. The TRM will consist of two major sections:
  1. A set of minimum standards for the conduct and review of verification, evaluation and measurement studies, revised at least every three (3) years to reflect developments in program design and in statistical and evaluation methodology.
    - a) Evaluation standards will:
      - i. Specify the appropriate comparison groups for a particular program design.
      - ii. Specify the approach to evaluation of participant selection (*i.e.*, how program participants are selected from the larger population of customers).
      - iii. Specify the sampling methodology (including the acceptable confidence level and sample error).
      - iv. Provide references to a library of acceptable questionnaire designs and survey items.
      - v. Specify the diagnostic analyses necessary to identify and resolve sampling and response biases.
      - vi. Provide methods for the estimation of net savings, including the specification of methods for quantifying the effects of free-ridership and spillover.

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- vii. Provide methods for parsing energy savings between electric and gas utilities.
  - viii. Specify the requirements for evaluation reports, including report appendices and table layouts.
2. An estimated savings database, revised as necessary to reflect the results of evaluation and measurement studies as described in section 9. The estimated savings database will list a series of energy efficiency measures, and the levels of savings and net-to-gross ratios for each. The items in the database will include the costs necessary to calculate measure-specific TRC. These cost and benefit values will be used to produce program-level TRC values. Database items will differentiate measures by program class (e.g., residential, commercial, industrial), by energy type (electric vs. gas) and whether they are weather sensitive.

### C. Effect of the TRM

1. Utilities may use the results from evaluation and measurement studies that comply with the TRM for purposes of demonstrating verified net savings for use in mechanisms approved under section 13 of these rules.
2. Utilities may use the estimated savings levels in the TRM in calculating verified net savings.

## **11. Cost Recovery**

*Purpose: The purpose of this rule is to set forth the guidelines applicable to proposals by the utility or others of mechanisms by which a utility will recover costs associated with implementing approved Plans.*

- A. Policy. It is the policy of the Commission to support the achievement of all cost-effective demand-side savings by providing utilities timely recovery of all costs prudently incurred under approved Plans. It is also the policy of the Commission to develop cost recovery mechanisms to further encourage investments in demand side programs.
- B. Guidelines for cost recovery proposals. Cost recovery proposals:
  1. May provide for expensing Plan costs, capitalizing Plan costs, or some combination thereof. If a utility proposes to capitalize some or all Plan costs, it shall clearly show the total costs associated with its proposal over the period of proposed amortization.
  2. May propose a mechanism under which rates for a given 12-month period include charges based on forecasted Plan costs (expense or capital recovery) for that 12-month period provided that:
    - a. The utility agrees to defer for later inclusion in rates any differences between the costs it forecasts and those it actually incurs. Amounts owed the utility or customers shall accrue interest on a monthly basis at the utility's weighted average cost of capital.

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- b. Annual changes in the charges occur only upon utility filing of an appropriate application under 4 CSR 240-2-060(1), opportunity for intervention, discovery and testimony by other parties, a hearing at which parties may cross-examine witnesses, and briefing.
  3. May propose to exempt low income customers from charges or lower the charges to them under the mechanism provided that there is a basis on which the utility can identify the class of low income customers and validate a customer's qualification for such a class.
  4. Shall be formalized in a tariff that summarizes the charges applicable to the utility's other tariffs for the applicable 12-month period.
  5. Shall require that rates and charges under the mechanism appear as a separate line item on a customer's bill.
  6. Shall require that the Commission, following a hearing, find:
    - a. That the costs incurred for the past 12-month period were incurred pursuant to an approved Plan and, if related to a Program, resulted in verified savings.
    - b. That the utility reasonably and prudently implemented the approved Plan during the period in question.
    - c. That the proposed charges fairly apportion the costs of the Plan across customer classes commensurate with Plan benefits, including the exemption of low income customers if proposed.
- C. Utilities shall maintain accounting plans and procedures to account for all Program and other costs under an approved Plan in accordance with generally accepted accounting principles.
- D. Processing of Proposals. Proposals may be part of the Plan filing under section 3 of these rules. If such proposals are not made as part of the Commission's consideration of a Plan under section 5, any such proposal must occur pursuant to the process described in subsections 5(C) and 5(D).

### **12. Aligning Utility Financial Incentives**

*Purpose: The purpose of this rule is to set forth the guidelines applicable to proposals by the utility or others of mechanisms by which utility financial incentives may be aligned with helping customers use energy more efficiently, in a manner that sustains or enhances utility customers' incentives to use energy more efficiently.*

- A. Policy. It is the policy of the Commission to support the achievement of all cost-effective demand-side savings by approving such mechanisms and/or rate designs that align a utility's financial incentives with helping its customers use energy more efficiently in a manner that sustains or enhances utility customers' incentives to use energy more efficiently. The Commission finds it equally important that such alignment result in

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removing a utility's incentive to increase sales of energy as well as ensuring that it suffers no financial harm from more efficient customer use of energy.

- B. Guidelines for alignment proposals. Proposals for mechanisms and/or rate designs that further the policy in subsection A:
1. May include a mechanism by which a utility will return to or recover from its customers differences between the revenues that Commission has authorized it to recover for a given calendar year and the revenues it has actually recovered. Any proposal for such a mechanism:
    - a) Shall include:
      - i. The proposed mechanism and tariff language;
      - ii. Examples of how the mechanism would work, both with hypothetical data and back-cast using actual data;
      - iii. Specifics on internal changes the utility would make if the mechanism is approved;
      - iv. Specifics on external efforts the utility would undertake if the mechanism is approved, including without limitation support of changes in codes and standards that affect the efficiency with which the utility's customers use energy; and
      - v. How the proponent proposes the Commission can determine if the mechanism has ensured 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.
    - b) Shall provide that, under the mechanism:
      - i. The utility will defer for later inclusion in rates any differences between the authorized revenues and actual revenues. Amounts owed the utility or customers shall accrue interest on a monthly basis at the utility's weighted average cost of capital.
      - ii. Rate adjustments under the mechanism will occur only upon utility filing of an appropriate application under 4 CSR 240-2-060(1), opportunity for intervention, discovery and testimony by other parties, a hearing at which parties may cross-examine witnesses, and briefing.
    - c) May be applicable to all or only identified customer classes and tariffs. If the proposed mechanism is not applicable to all customer classes and tariffs, the proponent shall explain the means by which the Commission's policy shall be achieved for classes or tariffs excluded from the mechanism.
    - d) May adjust actual revenues for the effects of weather before reconciling the actual revenues to authorized revenues for purposes of calculating a return to or recovery from customers.

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- e) May not include a means by which authorized revenues change outside of a general rate case unless the Commission has approved the basis of any such change in a general rate case.
2. May propose rate design changes designed to achieve the Commission's policy.
3. May propose a mechanism by which the utility will recover revenues lost because of verified savings under the Plan provided the proposal explains the means by which the Commission may find that the mechanism or companion mechanism will remove the utility's incentive to increase sales.

C. Processing of Proposals. Proposals may be part of the Plan filing under section 3 of these rules. If such proposals are not made as part of the Commission's consideration of a Plan under section 5, any such proposal must occur pursuant to the process described in subsections 5(C) and 5(D).

### **13. Utility Performance Incentive**

*Purpose: The purpose of this rule is to set forth the guidelines applicable to proposals by the utility or others of mechanisms by which a utility may have a timely earnings opportunity associated with cost-effective measurable and verifiable savings.*

- A. Policy. It is the policy of the Commission to support the achievement of all cost-effective demand-side savings by approving such mechanisms under which a utility has a timely earnings opportunity associated with cost-effective measurable and verifiable savings.
- B. Guidelines. Proposals for mechanisms that further the policy in subsection A shall be:
  1. Based on the value created by the utility's efforts under an approved Plan, as indicated by achieving net energy and demand savings in the Plan;
  2. Available for strong performance compared to applicable goals
    - a) With no earnings available for achieved savings less than 75% of the greater of the default targets above or the Plan's goals.
    - b) With greater reward for increasing benefits beyond planning estimates.
- C. Processing of Proposals. Proposals may be part of the Plan filing under section 3 of these rules. If such proposals are not made as part of the Commission's consideration of a Plan under section 5, any such proposal must occur pursuant to the process described in subsections 5(C) and 5(D).