

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

4 CSR 240-20.092 Electric Utility Demand-Side Programs Investment Mechanisms

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

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

(A) All cost-effective demand-side savings goals are the greater of the maximum achievable energy savings and demand savings as determined through a utility market potential study or the incremental annual energy savings goals and incremental annual demand savings goals in 4 CSR 240-20.093(2).

~~(A)(B)~~ Annual demand savings performance level means the annual demand savings which are achieved and measured/documented through demand-side programs EM&V reports divided by the annual demand savings target.

~~(A)(C)~~ Annual demand savings target means the amount of annual demand savings from a utility's approved demand-side programs established by the commission in a utility's general rate proceeding for the purpose of determining a utility's demand-side programs performance level in a subsequent general rate proceeding of the utility.

~~(A)(D)~~ Annual energy savings performance level means the annual energy savings which are achieved and measured/documented through demand-side programs EM&V reports divided by the annual energy savings target.

~~(A)(E)~~ Annual energy savings target means the amount of annual energy savings from a utility's approved demand-side programs as established by the commission in a utility's general rate proceeding for the purpose of determining a utility's demand-side programs performance level in a subsequent general rate proceeding of the utility.

~~(A)(F)~~ Annual report means a report of information concerning a utility's demand-side programs described in 4 CSR 240-3.093(5) that is filed annually with the commission by a utility.

~~(A)(G)~~ Annual utility incentive award level means the percent of annual net shared benefits that the utility will receive as a utility incentive.

~~(A)(H)~~ Annual net shared benefits means annual

~~(A)(I)~~ Approved demand-side program means a demand-side program or demand-side program pilot which is approved by the commission in accordance with 4 CSR 240-20.093(3) or 4 CSR 240-20.093(4).

~~(A)(J)~~ Cost recovery component of DSIM means revenue requirement approved by the commission in a general rate proceeding to recover historical costs for demand-side programs including interest.

Historical Costs-

KCPL- The statute says the goal is to further encourage investments. If this is the interpretation, not sure why this is different than what we do today. Timely earnings

opportunity and timely cost recovery is stated in statute and doesn't think this achieves either objective.

AUE- Agrees with KCPL.

Wal-Mart- Would like to see a opt-out provision for companies that have already put in their own resources or time.

MIEC- Capitalized and amortized over a reasonable period of time allows better earnings opportunities than the utilities get over supply side resources.

KCPL- There are a lot of options, commensurate program cost recovery and some lag on performance incentive piece. Commit to spend a given amount in a year and get to collect concurrently with spend and true-up at end of year.

Rich- What happens if rate case is sometime off.

KCPL- The only way you get around filing a rate case to begin recovery is a rider. Gets back to what is legal.

Rich- If rider is not an option, unless the program approval process is directly connected to rate cases, it is very difficult to give utilities a forward looking recovery.

KCPL- If we determine a rider is not legal, would need to move towards more forward looking costs. Outside of a rider, this would be challenging. Outside of a rate case, without a rider, don't get a chance to look at things.

AUE- They have tariffs in place, real time evaluations and quarterly stakeholders in place. Thinks they have a lot of the mechanism already in place. This is why he took a position for a rider in their last rate case. Agrees with KCPL. MEDA has filed language previously.

Staff- Could you give us language that fits into this version?

DNR and NRDC- Will resubmit previous comments on this issue as well.

Staff- How do we handle prudence on a forward looking basis?

AUE- We use that model in complying with commission rules regarding reliability. Can't think right now, but doesn't think this is an insurmountable problem.

NRDC- In Michigan, in annual reporting process there is a look at if funds are spent prudently.

KCPL- Provide data at program approval and then prudence at time of true-up.

Noranda- May be missing something if we are just looking at prudence. This is not a difficult hurdle to get over. The goal is cost effective electricity supply. We don't get there if we just have a prudence review. Incentives need to be aligned with developing the most cost-effective supply that we can get. Timely recovery may be a big stretch to go to something like a interim energy charge.

Rich- What is the right level of accountability? Energy efficiency programs are complicated to hit the bulls eye every time. Sometimes misfires can be constructive.

Noranda- Thinks we are trying to come up with the right incentive mechanism. If the programs are clearly meant to achieve the all cost effective measure that came out of the IRP, that is a different matter. Perhaps the link with the IRP is the answer. Will provide staff any additional input he can come up with.

(K) Customer means any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., that accepts financial and other responsibilities in exchange for services from one (1) or more public utilities.

~~(K)~~(L) Customer class means major customer rate groupings such as residential, small general service, large general service and large power service. Non-residential classes may further be defined as commercial and industrial.

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

(N) Demand response measure means measure that decreases demand or shift demand to a different time period.(O) Demand savings target means the expected reduction in a utility's peak demand relative to the baseline peak demand forecast approved by the commission in a general rate proceeding for the purpose of determining the utility's demand-side programs annual demand performance level in a subsequent general rate proceeding.

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

1. Cost recovery of demand-side program cost through capitalization of investments in demand-side programs or through a demand-side program cost tracker;

~~1.2.~~Recovery of the historic cost of approved demand-side programs;

~~1.3.~~Accelerated depreciation on demand-side investments; and

~~1.4.~~A utility incentive or penalty based on the achieved performance level of approved demand-side programs.

Throughput Incentive-

AUE- Okay with the shared net benefits approach. Simply cost recovery, either historical or forward looking, doesn't give them parity with supply-side resources because of the throughput incentive. They have done some analysis of shared net benefits, would need apx. 19% sharing with shared net benefits and graph gets to 20% at 150%. Not sure if this limit is what they need. If you move beyond all cost effective DSM, shared net benefits goes down. The further you get toward all cost effective the more shared benefits you need.

NRDC- Doesn't think that the performance incentive should substitute the throughput incentive. Doesn't think this would allow us to achieve the goals that the legislature envisioned. Will raise this issue in formal comments.

KCPL- Agrees mostly with AUE. Would like throughput incentive addressed in rule, but if we get the other 2 pieces correct, could live without it. Do see diminishing returns over time with shared savings approach.

KCPL- Echoes previous comments and AUE. Previous comments focused on cost recovery, throughput incentive and earnings opportunity. Would like to see something in rule that we are addressing all 3 of these components by specifically noting this in the rule.

Rich- Not unusual for this to be excluded in the rule in states that do decoupling. Many states that do lost revenues do include in their energy efficiency rules. If you want it to be somewhere, where would it go?

Steve Kidwell- Speaking for himself, would like to see us have a good discussion regarding decoupling in this state. It is important to get policy right here. Talk about how we can address any shortfalls in the legal framework before we even talk about the regulatory framework.

Rich- Perhaps some further legislative discussions need to occur.

OPC- There is specific language in statute about tools that the commission has. Doesn't think this legislation went so far as to include lost revenues or decoupling.

NRDC- This rule could note that this is a stated goal and then invite utilities to propose ways to achieve that goal.

Rich- Would be easier to have this conversation if we were looking at portfolio rather than program basis.

NRDC- Procedurally, dealing with everything at once is easier and stakeholders because they will know the value that they are going to get for customers.

OPC- Needs to be clear in this rule that individual utilities can do different things/have different solutions.

Shared Savings Approach-

MIEC- Doesn't like the graph for shared savings in this rule. Would be wrong for a lot of reasons, including AUE's comments, it should not be in rule. Thinks it should be addressed in policy.

OPC- Utilities start being awarded incentives as soon as they get over 50%. From a consumer prospective, this sounds outrageous.

Rich- CA approach starts at 25%. Degree of difficulty to achieve 100% should be considered here.

OPC- Shouldn't have a one size fits all graph, should be looked at by utility by utility. 100% probably means something different for utilities that have had a potential study or if stakeholders are or are not comfortable with the study.

Rich- 4 year review. Could this be a simple way to do this for a while?

OPC- Wouldn't associate the words simplicity and virtue in this situation. Not yet a definition of what is measured on the Y axis.

KCPL- Depends on how you define the benchmark. Doesn't think that a penalty is appropriate. Already an opportunity to essentially be penalized in other areas. Don't need to do it here too.

DNR- The reason why these levels are placed here is to encourage improvement over a period. The graph is clear and does set out clear expectations of targets, goals and performance.

Rich- How should we look at the numbers?

DNR- Those numbers are geared to other state's systems are. Start of in the middle of the target and end up pretty high in terms of incentive. 20% benefit is higher than 11 of 12 states that have this incentive. Would like to hear some quantitative reasoning as to why this is not sufficient.

AUE- The way we look at trying to remove disincentives- recognize there are some externalities, things we are not capturing that are of value to the utility. The results are what they are. Need to think seriously about removing the disincentive. Thinks about this as you have removed part of the disincentive of proceeding with energy efficiency through cost recovery, but the utility is still at risk if they don't achieve benefits. Do you really need a penalty at the end of the day?

NRDC- The specific numbers of incentive are related to the targets. Section G says that the incentive is based on a separate target set by the commission when program is

approved. Hard to say if this is appropriate if we don't yet know what the targets are. Not sure why you would have 2 sets of goals.

Staff- Annual dimension should be a part of the rule and it is not there yet.

AUE- Rejects having these targets in the rule. Not sure if they are goals since there is the provision about having the burden of proof. Almost the same as an Energy Efficiency Resource Standard.

Sierra Club- Echoes what NRDC said. Difficult to discuss when we don't know target or baseline. The definition for shared benefits has not been completed so it is hard to discuss. Would propose in the alternative is to set policy and procedure here and then have utility file their proposal so that it can be looked at in context.

KCPL- The concept of having a scaling incentive isn't something they are opposed to; however, with regard to graph, to the extent this is based on CA they aren't the same because CA has decoupling and different cost of production. Thinks chart should come out of rule. Different for each utility. Could propose what works for his company, which would be cost recovery, lost margins and incentives.

Rich- Asked to submit any recommended language.

Noranda- Thinks this chart is a solution to the throughput disincentive.

Rich- This is a performance incentive. It is really only a throughput incentive if there is no other.

Noranda- Agrees that there is no other, so this is the throughput solution. If that is what it is, we should be calling it that. MIEC has already explained that cost recovery is covered and is a non-issue.

OPC- When AUE is referring to 19%, is that high enough to address throughput incentive and an incentive too?

AUE- Preliminarily, numbers show that at least with that set of numbers, 19%-20% in their case, gets them in parity with the throughput incentive, but doesn't give any incentive beyond that.

Energy Solutions- On the margin, these things are not linear functions. As we approach things at the limits, need to be more exponential at what our approach is. This curve should reflect that.

AUE- Agrees with Energy Solutions.

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

~~(P)(Q)~~ DSIM cost recovery revenue requirement means the revenue requirement approved by the commission in a general rate proceeding to allow recovery of historic cost of demand-side programs with interest.

(R) DSIM rate means dollar per kilowatt-hour (\$ per kWh) charge on customer's bill for the portion of DSIM revenue requirement assigned by the commission to a customer class.

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

(S) DSIM utility incentive revenue requirement means the revenue requirement approved by the commission in a general rate proceeding equal to utility annual energy incentive award level times the annual energy net shared benefits of the utility plus the utility annual demand incentive award level times the annual demand net shared benefits of the utility.

~~(S)(T)~~ Electric utility or utility means any electric corporation as defined in section 386.020, RSMo which is subject to the jurisdiction of the commission.

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

~~(S)(V)~~ Energy savings target means the expected reduction in a utility's annual energy sales relative to the baseline energy sales forecast approved by the commission in a general rate proceeding for the purpose of determining the utility's demand-side programs annual energy performance level in a subsequent general rate proceeding.

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

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

~~(S)(Y)~~ Net shared benefits means

~~(S)(Z)~~ Participants test means

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

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

~~(S)(CC)~~ Total resource cost test means the test 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 programs to quantify the net savings obtained by substituting the demand-side program for supply-side resources.

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

~~(S)(EE)~~ Utility incentive component of DSIM means revenue requirement approved by the commission in a general rate proceeding to allow the utility to receive a portion of the net shared benefits of approved demand-side programs as measured/documented through EM&V.

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

(2) Applications to establish, continue, or modify a DSIM. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility may file an application with the commission to establish, continue or modify a DSIM in a general rate proceeding.

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

~~(A)(B)~~ Any party to the general rate proceeding may support or oppose the establishment, continuation or modification of a DSIM and/or may propose an alternative DSIM for the commission's consideration including but not limited to modifications to any electric utility's proposed DSIM.

~~(A)(C)~~ The commission shall approve the establishment, continuation or modification of a DSIM and associated tariff sheets if it finds the DSIM is designed to:

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

~~1.2.~~ Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and

~~1.3.~~ Provide timely earnings opportunities associated with cost-effective measurable and verifiable energy and demand savings.

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

~~(D)(E)~~ In determining to approve, modify, or continue a DSIM, the commission shall consider, but is not limited to only considering, the expected magnitude of the impact of the utility's approved demand-side programs on the utility's costs, revenues and earnings, the ability of the utility to manage all aspects of the approved demand-side programs, the ability to measure and verify the approved program impact, and the incentives or disincentives provided to the utility as a result of the inclusion or exclusion of cost recovery component and/or utility incentive component in the DSIM.

~~(D)(F)~~ Any cost recovery component of DSIM shall be based on historical costs of demand-side programs approved by the commission in accordance with 4 CSR 240-20.093(3) and 4 CSR 240-20.093(4). Indirect costs associated with demand-side programs, including but not limited to costs of utility market potential study and/or utility's portion of statewide technical reference manual, shall be allocated to demand-side programs and thus eligible for recovery through an approved DSIM. The commission shall order any DSIM cost recovery revenue requirements in a general rate proceeding.

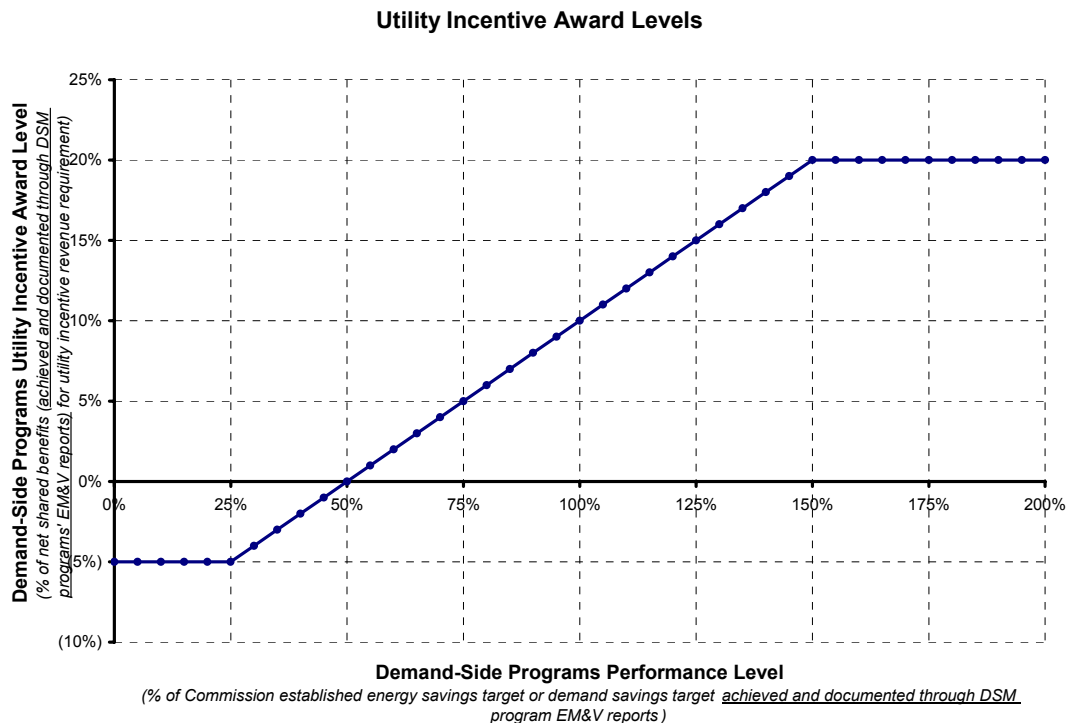
~~(D)(G)~~ Any utility incentive component of DSIM shall be based on the percentage of net shared benefits achieved and documented through EM&V reports for approved demand-side programs which have commission-established energy savings targets and/or demand savings targets in accordance with 4 CSR 240-20.093(3)(A).

1. Approved demand-side programs for which a utility shall be eligible for an incentive shall have been determined by the commission for the purpose of this subsection during the electric utility's preceding general rate proceeding.

1.2. Annual energy and demand savings targets established by the commission for the DSIM utility incentive component are not the same as the goals for all cost-effective demand-side savings established by the commission in accordance with 4 CSR 240-20.093(2).

1.3. The commission shall order any DSIM utility incentive revenue requirement in a general rate proceeding and the requirement shall be equal to DSIM utility incentive award level times the net shared benefits achieved and documented through EM&V reports for demand-side programs which have commission-established energy savings targets and/or demand savings targets.

1.4. The utility incentive award level shall be derived from the following chart.



(H) A utility application for a DSIM may include a provision to annually adjust the DSIM rates to include the true-up for over-collection and/or under-collection of the DSIM revenue requirement.

~~(H)(I)~~ The Commission shall apportion the DSIM revenue requirement to each customer class.

Rich- Do people feel that there is a need for further guidance from commission about how this should be apportioned to customer classes or is it okay to leave this for a subsequent decision?

MIEC- Offered language to staff about how this could be done. Talked about which classes could be allocated and customers that opt-out. If there were a lot of opt-outs that would be reflected. Also suggested how to apportion demand and energy pieces.

OPC- Wanted to address low-income customers. Doesn't think they should only be part of residential class. Shouldn't be exclusively residential.

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

~~(H)(K)~~ If, as a component of its proposed DSIM, the utility requests a provision to recover costs between general rate proceedings, the utility shall:

1. Include in its initial notice to customers regarding the general rate proceeding, a commission-approved description of how the proposed DSIM requested shall be applied to the monthly bills; and

~~1.2.~~ Include as part of its application proposed tariff sheets designed to implement the proposed DSIM.

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

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

~~(A)(B)~~ Any party to the general rate proceeding may oppose the discontinuation of a DSIM or any component of a DSIM.

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

~~(A)(D)~~ If the utility requests that cost recovery between rate cases be discontinued, in its initial notice to customers regarding the general rate proceeding, the electric utility shall include a commission-approved description of why it believes the cost recovery component of the DSIM should be discontinued.

(4) Requirements for annual adjustments of DSIM rates, if the commission approves cost recovery between rate cases. [IF IT IS DETERMINED THAT ANNUAL ADJUSTMENTS OF DSIM RATES ARE UNLAWFUL, THE ENTIRE SECTION (4) WILL BE DELETED FROM THIS RULE] When an electric utility files tariff sheets to adjust its DSIM rates between general rate proceedings, the staff shall examine and analyze the information filed by the electric utility in accordance with 4 CSR 240-3.163(8) and additional information obtained through discovery, if any, to determine if the proposed adjustment to the DSIM rates are in accordance with the provisions of this rule, section 393.1075, RSMo and the DSIM established, modified or continued in the most recent general rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff sheets to adjust its DSIM rates. If the DSIM rate adjustment is in accordance with the provisions of this rule, section 393.1075, RSMo, and the DSIM established, modified or continued in the most recent general rate proceeding, the commission shall issue an interim rate adjustment order approving the tariff sheets and the DSIM rate adjustments shall take effect sixty (60) days after the tariff sheets were filed. If the DSIM rate adjustment is not in accordance with the provisions of this rule, section 393.1075, RSMo, or the DSIM established, modified or continued in the most recent rate proceeding, the commission shall reject the proposed tariff sheets within sixty

(60) days of the electric utility's filing and may instead order implementation of an appropriate interim tariff sheets.

(A) An electric utility with a DSIM shall file one adjustment to its DSIM rates every twelve months.

~~(A)(B)~~ The electric utility shall be current on its submission of its Surveillance Monitoring Reports as required in section (9) and its annual reports as required in section (8).

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

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

(A) If the commission approves a DSIM for an electric utility, the electric utility must file a general rate proceeding with the effective date of new rates to be no later than four (4) years after the effective date of the commission order implementing the DSIM, assuming the maximum statutory suspension of the rates so filed.

(6) Disclosure on customers' bills. Regardless of whether or not the utility requests costs recovery between rate cases, any amounts charged under a DSIM approved by the commission, including any incentives allowed by the commission, shall be separately

disclosed on each customer's bill. Proposed language regarding this disclosure shall be submitted to and approved by the commission before it appears on customers' bills.

~~(6)(7)~~ Evaluation, measurement and verification (EM&V) of the process and impact of demand-side programs. Each electric utility shall hire an independent contractor to perform and report EM&V of each commission-approved demand-side program in accordance with 4 CSR 240-20.093(3) or 4 CSR 240-20.093(4). The commission shall hire an independent contractor to audit and report on the work of each utility's independent EM&V contractor.

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

Rich- May be a little ambiguous. Does this include the performance incentives or just program costs? His interpretation is the program costs including incentives.

DNR- 5% is pretty standard. Reads it just to be program costs, not performance incentives. In direct relationship to what you are evaluating. Paragraph (E)(2) is the only place that the TRM is mentioned. Where is it described in the rule? Needs some more attention somewhere. In the rule DNR submitted, there is a very specific recommendations of what needs to be in that manual including what should be in evaluations.

AUE- Use the total now. Roughly the split between admin and incentives is about 50/50.

Rich- Clarified that we are discussion the Pperformance incentive.

AUE- Haven't thought through that.

Janet- Under 7C- not sure who the stakeholders are if there is not a case. Perhaps, the parties of the case that established the demand-side program.

Wal-Mart- 5% is pretty standard. A lot of the things done in ~~EE~~energy efficiency can be classified in deemed savings.

Rich- Some can be, but half are also customized.

Wal-Mart- Is there going to be a competitive bidding process?

Rich- Not sure that the rules need to get into this. More generic rules on oversight.

DNR- Reading indicates that a lot of this is left to the utility. 8 of 13 ~~midwest~~Midwest states allow utilities to establish their own EM&V contractor.

KCPL- 5% should be program cost not including performance incentives.

NRDC- Thinks whole EM&V section makes sense and fits together well. Thinks the portion that all the stakeholders get the draft at the same time, draft and final is really important. Stakeholders should be parties in case but there may be a larger collaborative that should be included.

DNR- Not sure if a utility collaborative is sufficient. Thinks a statewide collaborative is appropriate.

AUE- EM&V auditor, would like to see a percentage of costs for this evaluator as well because they need to track this to include in TRC calculation as well. Had suggestion in their draft rule. 5% should not include the staff auditor.

OPC- Thought proposed cap on staff's auditor looked low. May not know the appropriate number until later. Shouldn't include here. These things could be left to TRM and it could include some estimated amounts to use in TRC. Paragraph 7C- OPC doesn't have a lot of independence in the EM&V process and 7C helps them be comfortable with that. Hopefully, in the future utilities will include OPC in selecting EM&V contractors.

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

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

(C) EM&V draft reports for each approved demand-side program shall be delivered simultaneously to the utility, staff, public counsel and other stakeholders.

~~(C)(D)~~ EM&V final reports of each approved demand-side program shall:

1. Be completed by the utility's EM&V contractor on a schedule approved by the commission at the time of demand-side program approval; and

~~1.2.~~ Be filed with the commission and delivered simultaneously to the utility, staff, public counsel, and other stakeholders.

(E) Electric utility's EM&V contractors shall use an approved statewide technical reference manual when performing EM&V work.

(8) Demand-side programs annual reports. Each electric utility with approved demand-side programs shall file an annual report providing information by no later than 60 days after the end of each calendar year in the form and having the content provided for by 4 CSR 240-3.163(5), and serve a copy on each party to the case where the programs were last established, modifies or continued. Interested parties may file comments with the commission concerning the content of the utility's annual report within sixty (60) days of its filing.

No comments on this section.

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

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

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

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

(10) Tariffs and regulatory plans. The provisions of this rule shall not affect:

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

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

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

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

(13) Rule review. The commission shall review the effectiveness of this rule by no later than December 31, 2014, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.

Other Issues?

MIEC- (c)c- didn't see cost of incentives in TRC. Thought we had previous agreement that cost of incentives would be included in the TRC. Also, the definition of the RIM test disappeared. Thinks that this should be included. Concern is that this is a conventional test that includes valuable information. Not a screening test for what we implement but has valuable information.

NRDC- Would like to see RIM test remain out. Doesn't think it provides useful information for the cost effectiveness of the programs.