

Jason Kander

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-20.093

COPY

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

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TYPE OF RULEMAKING ACTION TO BE TAKEN

- ☐ Emergency rulemaking, include effective date
☒ Proposed Rulemaking
☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration
☐ Request for Non-Substantive Change
☐ Statement of Actual Cost
☐ Order of Rulemaking

Effective Date for the Order _____

☐ Statutory 30 days OR Specific date _____

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☐ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Small Business Regulatory
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SMALL BUSINESS
REGULATORY FAIRNESS BOARD

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Staff Director

December 27, 2016

Jason Kander
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-20.093 Demand-Side Programs Investment Mechanisms

Dear Secretary Kander,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed amendment lawfully submitted by the Missouri Public Service Commission.

The Public Service Commission has determined and hereby certifies that this proposed amendment will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017, RSMo 2000, that the proposed amendment does not constitute a taking of real property under relevant state and federal law, and that the proposed amendment conforms to the requirements of 1.310, RSMo, regarding user fees.

The Public Service Commission has determined and hereby also certifies that this proposed amendment complies with the small business requirements of 1.310, RSMo, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo, by exempting any small business consisting of fewer than fifty full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Mr. Jason Kander
December 27, 2016
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Statutory Authority: section 393.1075.11, RSMo Supp. 2010.

If there are any questions regarding the content of this proposed amendment, please contact:

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A handwritten signature in cursive script, reading "Morris L. Woodruff".

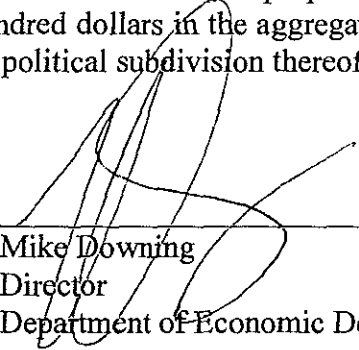
Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

**AFFIDAVIT
PUBLIC COST**

**STATE OF MISSOURI)
COUNTY OF COLE)**

I, Mike Downing, Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed amendment to rule, 4 CSR 240-20.093, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

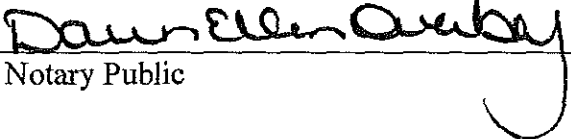


Mike Downing
Director
Department of Economic Development

Subscribed and sworn to before me this 7th day of Nov, 2016, I am
commissioned as a notary public within the County of COLE, State of
Missouri, and my commission expires on Dec. 13, 2019



DAWN ELLEN OVERBEY
My Commission Expires
December 13, 2019
Moniteau County
Commission #15456865



Notary Public

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SECRETARY OF STATE
ADMINISTRATIVE RULES

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

COPY

Proposed Amendment

4 CSR 240-20.093 Demand-Side Programs Investment Mechanisms.

PURPOSE: This amendment modifies the provisions related to applications to establish, continue or modify demand-side programs investment mechanisms and rate design modifications.

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

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

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

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

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

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

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

(G) Baseline demand forecast means a reference forecast of summer and winter demand at the class level in the absence of any new demand-side programs but including the effects of

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naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

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

(I) Cost recovery component of a DSIM means the methodology approved by the commission in a utility's filing for demand-side program approval to allow the utility to receive recovery of costs of approved demand-side programs with interest;

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

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

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

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

1. Cost recovery of demand-side program costs through capitalization of investments in demand-side programs;

2. Cost recovery of demand-side program costs through a demand-side program cost tracker;

3. Accelerated depreciation on demand-side investments;

4. Recovery of lost revenues; and

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

(N) DSIM cost recovery revenue requirement means the revenue requirement approved by the commission in a utility's filing for demand-side program approval or a semi-annual DSIM rate adjustment case to provide the utility with cost recovery of demand-side program costs based on the approved cost recovery component of a DSIM;

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

(P) DSIM revenue requirement means the sum of the DSIM cost recovery revenue requirement, DSIM utility lost revenue requirement, and DSIM utility incentive revenue requirement;

(Q) DSIM utility incentive revenue requirement means the revenue requirement approved by the commission to provide the utility with a portion of annual net shared benefits based on the approved utility incentive component of a DSIM;

(R) DSIM utility lost revenue requirement means the revenue requirement explicitly approved (if any) by the commission to provide the utility with recovery of lost revenue based on the approved utility lost revenue component of a DSIM;

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

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

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

(V) Evaluation, measurement, and verification, or EM&V, means the performance of studies and activities intended to evaluate the process of the utility's program delivery and oversight and to estimate and/or verify the estimated actual energy and demand savings, utility lost revenue, cost effectiveness, and other effects from demand-side programs;

(W) Filing for demand-side program approval means a utility's filing for approval, modification, or discontinuance of demand-side program(s) which may also include a simultaneous request for the establishment, modification, or discontinuance of a DSIM;

(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;

(Y) Lost revenue means the net reduction in utility retail revenue, taking into account all changes in costs and all changes in any revenues relevant to the Missouri jurisdictional revenue requirement, that occurs when utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 cause a drop in net system retail kWh delivered to jurisdictional customers below the level used to set the electricity rates. Lost revenues are only those net revenues lost due to energy and demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and measured and verified through EM&V;

(Z) Probable environmental compliance cost means the expected cost to the utility of complying with new or additional environmental legal mandates, taxes, or other requirements that, in the judgment of the utility's decision-makers, may be imposed at some point within the planning horizon which would result in environmental compliance costs that could have a significant impact on utility rates;

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

(BB) Staff means all personnel employed by the commission, whether on a permanent or contract basis, except: commissioners; commissioner support staff, including technical advisory staff; personnel in the secretary's office; and personnel in the general counsel's office, including personnel in the adjudication department. Employees in the staff counsel's office are members of the commission's staff;

(CC) Statewide technical resource manual means a document that is used by electric utilities to assess energy savings and demand savings attributable to energy efficiency and demand response;

(DD) Total resource cost test, or TRC, means the test of the cost-effectiveness of demand-side programs that compares the avoided utility costs to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus utility costs to administer, deliver, and evaluate each demand-side program;

(EE) Utility incentive component of a DSIM means the methodology approved by the commission in a utility's filing for demand-side program approval to allow the utility to receive a portion of annual net shared benefits achieved and documented through EM&V reports;

(FF) Utility lost revenue component of a DSIM means the methodology approved by the commission in a utility's filing for demand-side program approval to allow the utility to receive recovery of lost revenue; and

(GG) Utility market potential study means an evaluation and report by an independent third party of the energy savings and demand savings available in a utility's service territory broken down by customer class and major end-uses within each customer class.] The definitions of terms used in this section can be found in 4 CSR 240-20.092 Definitions for Demand-Side Programs and Demand-Side Program Investment Mechanisms, which is incorporated by reference.

(2) Applications to establish, continue, or modify a DSIM. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility shall file an application with the commission to establish, continue, or modify a DSIM in a utility's filing for demand-side program approval.

(A) *[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.]* An application to establish a DSIM shall include the following supporting information as part of, or in addition to, its direct testimony. Supporting workpapers shall be submitted as executable versions in native format with all formulas intact.

1. The notice provided to customers describing how the proposed DSIM will work, how any proposed DSIM rate will be determined, and how any DSIM rate will appear on customer bills.
2. An example customer bill showing how the proposed DSIM shall be separately identified on affected customers' bills.
3. A complete description and explanation of the design, rationale, and intended operation of the proposed DSIM.
4. Estimates of the effect of the DSIM and all other impacts of the demand-side program spending, in aggregate, on customer rates and average bills for each of the next five (5) years, and as a net present value over the lifetime of the demand-side program impacts, for each rate class.
5. Estimates of the effect of the earnings opportunity component of DSIM on earnings and key credit metrics for each of the next three (3) years including the level of earnings and key credit metrics expected to occur for each of the next three (3) years with and without the earnings opportunity component of DSIM.
6. A complete explanation of all the costs that shall be considered for recovery under the proposed DSIM and the specific account used for each cost item on the electric utility's books and records.
7. A complete explanation of any change in business risk to the electric utility resulting from implementation of an earnings opportunity component of a DSIM in setting the electric utility's allowed return on equity, in addition to any other changes in business risk experienced by the electric utility.
8. A proposal for how the commission can determine if any earning opportunity component of a DSIM is aligned with helping customers use energy more efficiently.
9. If the utility proposes to adjust its DSIM rates between general rate proceedings, proposed DSIM rate adjustment clause tariff sheets.
10. If the utility proposes to adjust the DSIM amount between general rate proceedings, a complete explanation of how the DSIM rates shall be established and how they will be adjusted for any over and/or under-recovery amounts as well as the impact on the

DSIM amount as a result of approved new, modified, or discontinued demand-side programs.

(B) If an electric utility files to modify its approved DSIM, the electric utility shall file with the commission and serve upon parties, as provided in section (14) below, the following supporting information as part of, or in addition to, direct testimony. Supporting workpapers shall be submitted with all models and spreadsheets provided as executable versions in native format with all formulas intact;

1. Information as required by subsection (2)(A), above;
2. Explanation of any proposed modification to the DSIM and why the proposed modification is being requested;
3. A complete explanation of any change in business risk to the electric utility resulting from modification of an earnings opportunity component of a DSIM in setting the electric utility's allowed return on equity, in addition to any other changes in business risk experienced by the electric utility; and
4. Any additional information the commission orders to be provided.

[(B)] (C) Any party to the application for a utility's filing for demand-side program approval may support or oppose the establishment, continuation, or modification of a DSIM and/or may propose an alternative DSIM for the commission's consideration including, but not limited to, modifications to any electric utility's proposed DSIM. Both the utility and the commission retain the authority to approve, accept, or reject any proposed establishment, continuation, or modification of a DSIM or any proposed alternative DSIM.

[(C)] (D) The commission shall approve the establishment, continuation, or modification of a DSIM and associated tariff sheets if it finds the electric utility's approved demand-side programs are expected to result in energy and demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers and will assist the commission's efforts to implement state policy contained in section 393.1075, RSMo, to—

1. Provide the electric utility with timely recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs;
2. Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and
3. Provide timely earnings opportunities associated with cost-effective measurable and verifiable energy and demand savings;

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

[(E)] (F) In determining to approve, modify, or continue a DSIM, the commission may consider, but is not limited to only considering, the expected magnitude of the impact of the utility's approved demand-side programs on the utility's costs, revenues, and earnings, the ability of the utility to manage all aspects of the approved demand-side programs, the ability to measure and verify the approved **demand-side** programs' [s] impacts, any interaction among the various components of the DSIM that the utility may propose, and the incentives or disincentives provided to the utility as a result of the inclusion or exclusion of *[cost recovery component, utility lost revenue component, and/or utility incentive component in the DSIM]*

DSIM components as defined in 4 CSR 240-20.092(N). In this context the word “disincentives” means any barrier to the implementation of a DSIM. There is no penalty authorized in this section.

~~[(F)]~~ **(G)** Any cost recovery component of a DSIM shall be based on costs of demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs. Indirect costs associated with demand-side programs, including but not limited to costs of utility market potential study, **evaluation, measurement, and verification (EM&V)**, and/or utility’s portion of statewide technical ~~[resource]~~ **reference** manual, shall be allocated to demand-side programs and thus shall be eligible for recovery through an approved DSIM. The commission shall approve any cost recovery component of a DSIM simultaneously with the programs approved in accordance with 4 CSR 240-20.094 Demand-Side Programs.

~~[(G)]~~ **(H)** *[Any utility lost revenue component of DSIM shall be based on energy or demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and measured and verified through EM&V.]*

- 1. A utility cannot recover revenues lost due to utility demand-side programs unless it does not recover the fixed cost as set in the last general rate case, i.e., actual annual billed system kWh is less than the system kWh used to calculate rates to recover revenues as ordered by the commission in the utility’s last general rate case.*
- 2. The commission shall order any utility lost revenue component of a DSIM simultaneously with the programs approved in accordance with 4 CSR 240-20.094 Demand-Side Programs.*
- 3. In a utility’s filing for demand-side program approval in which a utility lost revenue component of a DSIM is considered, there is no requirement for any implicit or explicit utility lost revenue component of a DSIM or for a particular form of a lost revenue component of a DSIM.*
- 4. The commission may address lost revenues solely or in part, directly or indirectly, with a performance incentive mechanism through a utility incentive component of DSIM.*
- 5. Any explicit utility lost revenue component of a DSIM shall be implemented on a retrospective basis and all energy and demand savings to determine a DSIM utility lost revenue requirement must be measured and verified through EM&V prior to recovery;]*

Any throughput disincentive component of DSIM shall be based on energy or demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and will be determined as a result of energy savings determined through EM&V.

- 1. The commission shall order any throughput disincentive component of a DSIM simultaneously with the demand-side programs approved in accordance with 4 CSR 240-20.094 Demand-Side Portfolio.**
- 2. In a utility’s filing in which a throughput disincentive component of a DSIM is considered, there is no requirement for any implicit or explicit utility throughput disincentive component of a DSIM or for a particular form of a throughput disincentive component of a DSIM.**
- 3. Any explicit throughput disincentive component of a DSIM shall be implemented on a prospective basis.**

[(H)] **(I)** Any *[utility incentive]* **earnings opportunity** component of a DSIM shall be based on the performance of demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and shall include a methodology for determining the utility's **earnings opportunity amount for individual demand-side programs based upon program performance relative to commission-approved performance metrics for each demand-side program.** *[portion of annual net shared benefits achieved and documented through EM&V reports for approved demand-side programs. Each utility incentive component of a DSIM shall define the relationship between the utility's portion of annual net shared benefits achieved and documented through EM&V reports, annual energy savings achieved and documented through EM&V reports as a percentage of annual energy savings targets, and demand savings achieved and documented through EM&V reports as a percentage of annual demand savings targets.]*

1. *[Annual]* Energy and demand savings targets approved by the commission for use in the *[utility incentive]* **earnings opportunity** component of a DSIM are not necessarily the same as the incremental *[annual]* energy and demand savings goals and cumulative *[annual]* energy and demand savings goals specified in **subsection [4 CSR 240-20.094](2).**

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

3. Any *[utility incentive]* **earnings opportunity** component of a DSIM shall be implemented on a retrospective basis and all energy and demand savings used to determine a DSIM *[utility incentive revenue requirement]* **earnings opportunity amount** must be measured and verified through EM&V.

[(I)] **(J)** If the DSIM proposed by the utility includes adjustments to DSIM rates between general rate proceedings, the DSIM shall include a provision to adjust the DSIM rates *[every six (6) months]* **not less than annually** to include a true-up for over- and under-recovery~~[collection]~~ of the DSIM *[revenue requirement]* **amount** as well as the impact on the DSIM cost recovery *[revenue requirement]* amount as a result of approved new, modified, or deleted demand-side programs.

[(J)] **(K)** If the commission approves an *[utility incentive]* **earnings opportunity** component of a DSIM, such *[utility incentive]* **earnings opportunity** 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.

[(K)] **(L)** The commission shall apportion the DSIM *[revenue requirement]* **amount** to each customer class.

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

(A) When submitting an application to discontinue a DSIM, the electric utility shall *[meet the filing requirements in 4 CSR 240-3.163(4).]* **file with the commission and serve on parties as provided in section (14), the following supporting information as part of, or in addition to, direct testimony. Supporting workpapers shall be submitted with all models and spreadsheets provided as executable versions in native format with all formulas intact:**

1. An example of the notice to be provided to customers.

2. If the utility's DSIM allows adjustments of the DSIM rates between general rate proceedings, a complete explanation of how the over-recovery or under-recovery of the DSIM amount that the electric utility is proposing to discontinue shall be handled.

3. A complete explanation of why the DSIM is no longer necessary to provide the electric utility a sufficient opportunity to recover demand-side programs costs, throughput disincentive, and/or to receive an earnings opportunity.

4. A complete explanation of any change in business risk to the electric utility resulting from discontinuation of an earnings opportunity related to the DSIM in setting the electric utility's allowed return on equity, in addition to any other changes in business risk experienced by the electric utility.

5. Any additional information the commission orders to be provided.

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

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

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

(4) Requirements for *[Semi-Annual]* Adjustments of DSIM Rates *[, if the Commission Approves Adjustments of DSIM Rates]* Between General Rate Proceedings. *[Semi-Annual]* Adjustments to DSIM rates between general rate proceedings shall occur not less than annually, and may include adjustments to the DSIM cost recovery *[revenue requirement and shall not include and adjustment to the DSIM utility lost revenue requirement]* amount, the DSIM throughput disincentive amount, and/or the DSIM *[utility incentive revenue requirement]* earnings opportunity amount. *[Adjustments to the DSIM cost recovery revenue requirement may reflect new and approved demand-side programs, approved program modifications, and/or approved program discontinuations.]*

(A) The electric utility shall file tariff sheets to adjust its DSIM rates accompanied by supporting testimony and contain at least the following supporting information. All models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

1. Amount of revenue that it has over-recovered or under-recovered through the most recent recovery period by rate class.

2. Proposed adjustments or refunds by rate class.

3. Electric utility's short-term borrowing rate.

4. Proposed adjustments to the current DSIM rates.

5. Complete documentation for the proposed adjustments to the current DSIM rates.

7. Any additional information the commission ordered to be provided.

(B) *[When an electric utility files tariff sheets to adjust its DSIM rates between general rate proceedings,]* The Staff shall examine and analyze the information filed by the electric utility *[in accordance with 4 CSR 240-3.163(8)]* and additional information obtained through discovery, if any, to determine if the proposed adjustments to the DSIM *[cost recovery revenue requirement]* amount and DSIM rates are in accordance with the provisions of this rule, section 393.1075, RSMo, and the DSIM established, modified, or continued in the most recent filing for demand-

side program approval. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff sheets to adjust its DSIM rates. If the adjustments to the *[DSIM cost recovery revenue requirement and]* DSIM rates are in accordance with the provisions of this rule, section 393.1075, RSMo, and the DSIM established, modified, or continued in the most recent filing for demand-side program approval, the commission shall issue an interim rate adjustment order approving the tariff sheets and the adjustments to the DSIM rates shall take effect sixty (60) days after the tariff sheets were filed. If the adjustments to the *[DSIM cost recovery revenue requirement and]* DSIM rates are not in accordance with the provisions of this rule, section 393.1075, RSMo, or the DSIM established, modified, or continued in the most recent filing for demand-side program approval, the commission shall reject the proposed tariff sheets within sixty (60) days of the electric utility's filing and may instead order the filing of interim tariff sheets that implement its decision and approval.

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

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

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

[(D)] (F) If the staff, public counsel, or other party receives information which has not been submitted in compliance with *[4 CSR 240.3163(8)]* **section (4)(A)**, 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 240.3163(8)]* **section (4)(A)**, 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 240.3163(8)]* **section (4)(A)** 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 240.3163(8)]* **section (4)(A)** or a commission order in a previous proceeding in a request to decrease DSIM rates shall not alter the processing timeline.

(5) Implementation of DSIM. Once a DSIM is approved, modified, or discontinued by the commission, the utility may request deferral accounting using the utility's latest approved weighted average cost of capital until the utility's next general rate proceeding. At the time of filing the general rate proceeding subsequent to DSIM approval, modification, or discontinuance, the commission shall use an interim rate adjustment order to implement the approved, modified, or discontinued DSIM.

(A) Duration of DSIM. Once a DSIM is approved by the commission, it shall remain in effect *[for a term of not more than four (4) years unless the commission earlier authorizes]* **to allow full recovery of all DSIM amounts or for the term otherwise ordered by the commission.** The commission may authorize the modification or discontinuance of the DSIM *[although an]*, or change the duration previously approved. The electric utility shall submit proposed tariff sheets to implement interim *[semi-annual]* adjustments to its DSIM rates between general rate proceedings. **During the term of an approved DSIM, any party to the application for a utility's filing for demand-side program approval may propose modifications to the DSIM. The utility may apply to modify the DSIM per subsection (2).** *[(B) If the utility has an implemented DSIM, the electric utility shall file a general rate proceeding within four (4) years after the effective date of the commission order implementing the DSIM, assuming the maximum statutory suspension of the rates so filed.]*

(6) Disclosure *[on Customer's Bills]*. Regardless of whether or not the utility requests adjustments of its DSIM rates between general rate proceedings, any amounts charged under a DSIM approved by the commission, including any *[utility incentives]* **earnings opportunity** allowed by the commission, shall be separately disclosed on each customer's bill. Proposed language regarding this disclosure shall be submitted to and approved by the commission before it appears on customers' bills. **The disclosure shall also appear on the utility's websites.**

(7) Evaluation, Measurement, and Verification (EM&V) of the Process and Impact of Demand-Side Programs. Each electric utility shall hire an independent contractor to perform and report EM&V of each commission-approved demand-side program in accordance with 4 CSR 240-20.094 Demand-Side Programs. The commission shall hire an independent contractor to audit and report on the work of each utility's independent EM&V contractor. **The commission staff shall provide oversight and guidance to the independent commission contractor, but shall not influence the independent contractor's audit(s). Staff counsel shall provide legal representation to the independent contractor in the event the independent contractor is required to testify before the commission.**

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

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

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

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

(D) EM&V final reports from the utility's contractor of each approved demand-side program shall—

1. Document, include analysis, and present any applicable recommendations for at least the following. All models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

A. Process evaluation and recommendations, if any; and

B. Impact evaluation—

(I) The lifetime and annual gross and net demand savings and energy savings achieved under each demand-side program, and the techniques used to estimate annual demand savings and energy savings;

(II) For demand-side programs subject to cost-effectiveness tests, include total resource cost test, societal cost test, utility cost test, participant cost test, and nonparticipant cost test of each demand-side program; and

(III) Determine the benefits achieved for each demand-side program and portfolio using the UCT methodology.

[1.] 2. Be completed by the EM&V contractor on a schedule approved by the commission at the time of demand-side program approval in accordance with 4 CSR 240-20.094(3); and

[2.] 3. Be filed with the commission in the case in which the utility's demand-side program approval was received and delivered simultaneously to the utility and the parties of the case in which the demand-side program was approved.

(E) Electric utility's EM&V contractors shall *[use, if available, a commission-approved statewide technical resource manual when performing EM&V work]*:

1. Include specific methodology for performing EM&V work.

2. All applications to establish, continue or modify a DSIM filed after a statewide technical reference manual is approved by the commission shall require EM&V contractors to use the most current statewide technical reference manual. Applications approved before the statewide technical reference manual is approved shall utilize the methodology approved with the application.

(8) Demand-Side Program Annual Report. Each electric utility with one (1) or more approved demand-side programs shall file an annual report by no later than *[sixty (60)] ninety (90)* days after the end of each *[calendar]* program year, *[in the form and having the content provided for by 4 CSR 240-3.163(5)]* and serve a copy on each party to the case in which the demand-side programs were last established, modified, or continued. Interested parties may file comments with the commission concerning the content of the utility's annual report within *[sixty (60)] ninety (90)* days of its filing. Annual reports shall include at a minimum the following information, and all models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

(A) An affidavit attesting to the veracity of the information;

(B) A list of all approved demand-side programs and the following information for each approved demand-side program:

1. Actual amounts expended by year, including customer incentive payments;

2. Peak demand and energy savings impacts and the techniques used to estimate those impacts;

3. A comparison of the estimated actual annual peak demand and energy savings impacts to the level of annual peak demand and energy savings impacts that were projected when the demand-side program was approved;

4. For market transformation demand-side programs, a quantitative and qualitative assessment of the progress being made in transforming the market;

5. A comparison of actual and budgeted demand-side program costs, including an explanation of any increase or decrease of more than twenty percent (20%) in the cost of a demand-side program;
 6. The avoided costs and the techniques used to estimate those costs;
 7. The estimated cost-effectiveness of the demand-side program and a comparison to the estimates made by the utility at the time the demand-side program was approved;
 8. The estimated net economic benefits and net shared benefits of the demand-side portfolio;
 9. For each demand-side program where one (1) or more customers have opted out of demand-side programs pursuant to section 393.1075.7, RSMo, a listing of the customer(s) who have opted out of participating in demand-side programs;
 10. As part of its annual report, the electric utility shall file or provide a reference to the commission case that contains a copy of the EM&V report for the most recent annual reporting period; and
 11. Demonstration of relationship of the demand-side program to demand-side resources in latest filed 4 CSR 240-22 compliance filing.
- (9) Submission of Surveillance Monitoring Reports. Each electric utility with an approved DSIM shall submit to staff, public counsel, and parties approved by the commission a Surveillance Monitoring Report *[in the form and having the content provided for by 4 CSR 240-3.163(6)]*. Each electric utility with a DSIM shall submit as page 6 of the Surveillance Monitoring Report a quarterly progress report in a format determined by the staff, and all models and spreadsheets shall be provided as executable versions in native format with all formulas intact. The report shall be submitted to the Staff, Public Counsel, and parties approved by the commission.
- (A) The Surveillance Monitoring Report shall be submitted within fifteen (15) days of the electric utility's next scheduled United States Securities and Exchange Commission (SEC) 10-Q or 10-K filing with the initial submission within fifteen (15) days of the electric utility's next scheduled SEC 10-Q or 10-K filing following the effective date of the commission order establishing the DSIM.
- (B) If the electric utility also has an approved environmental cost recovery mechanism or a fuel cost adjustment mechanism, the electric utility shall submit a single Surveillance Monitoring Report for all mechanisms.
- (C) Upon a finding that a utility has knowingly or recklessly provided materially false or inaccurate information to the commission regarding the surveillance data prescribed in *[4 CSR 240-3.163(6)]* **Section (9)**, after notice and an opportunity for a hearing, the commission may suspend a DSIM or order other appropriate remedies as provided by law.
- (14) *[Rule Review. The commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.]* Party status and providing to other parties affidavits, testimony, information, reports, and workpapers in related proceedings subsequent to the utility's filing for demand-side program approval modifying, or continuing a DSIM.

(A) A person or entity granted intervention in a utility's filing for demand-side program approval in which a DSIM is approved by the commission shall have the right to be a party to any subsequent related periodic rate adjustment proceeding without the necessity of applying to the commission for intervention; however, such person or entity shall file a notice of intention to participate within the intervention period. In any subsequent utility's filing for demand-side program approval, such person or entity must seek and be granted status as an intervenor to be a party to that proceeding. Affidavits, testimony, information, reports, and workpapers to be filed or submitted in connection with a subsequent related semi-annual DSIM rate adjustment proceeding or utility's filing for demand-side program approval to modify, continue, or discontinue the same DSIM shall be served on or submitted to all parties from the prior related demand-side program approval proceeding and on all parties from any subsequent related periodic rate adjustment proceeding or utility's filing for demand-side program approval to modify, continue, or discontinue the same DSIM, concurrently with filing the same with the commission or submitting the same to the manager of the energy resource analysis section of the staff and public counsel.

(B) A person or entity not a party to the utility's filing for demand-side program approval in which a DSIM is approved by the commission may timely apply to the commission for intervention, pursuant to 4 CSR 240-2.075(2) through (4) of the commission's rule on intervention, respecting any related subsequent periodic rate adjustment proceeding or, pursuant to 4 CSR 240-2.075(1) through (5), respecting any subsequent utility's filing for demand-side program approval to modify, continue, or discontinue the same DSIM.

(15) MEEIA Rate Design Modifications

(A) An electric utility may request modification of its rate design for demand-side cost recovery by filing tariff schedule(s) with the Commission as part of —

1. An application for approval of demand-side programs or a demand-side program plan and a DSIM; or
2. A general rate case proceeding

(B) Any request for modification of a rate design shall include with the filing supporting documentation for the request, including but not limited to workpapers, data, computer model documentation, analysis, and other supporting information to support and explain the modification of the rate design. All information shall be labeled and all spreadsheets shall have all formulas intact.

(C) Right to Discovery Unaffected. In addressing certain discovery matters and the provision of certain information by electric utilities, this rule is not intended to restrict the discovery rights of any party.

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

**Original authority: 393.1075, RSMo 2009.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before April 27, 2017, and should include reference to Commission Case No. EX-2016-0334. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for May 4, 2017, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

Small Business Regulator Fairness Board Small Business Impact Statement

Date: June 8, 2016

Rule Number: 4 CSR 240-20.093

Name of Agency Preparing Statement: Missouri Public Service Commission

Name of Person Preparing Statement: Natelle Dietrich

Phone Number: 573-751-7427

Email: natelle.dietrich@psc.mo.gov

Name of Person Approving Statement: Natelle Dietrich

Please describe the methods your agency considered or used to reduce the impact on small businesses (*examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique*).

The Commission held multiple workshops and received several rounds of informal comments to address concerns raised by stakeholders.

Please explain how your agency has involved small businesses in the development of the proposed rule.

Workshops were open to all interested stakeholders. Representatives of multi-family housing dwellings, industrial users and consumer groups participated.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

None

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

Small business customers that do not "opt-out" pursuant to the provisions of Section 393.1075.7 will pay the demand-side investment mechanism, or DSIM, which is a mechanism approved by the commission that may include cost

recovery of program costs, accelerated depreciation, recovery or lost revenues, utility incentive based on achieved performance of demand-side programs.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

None identified.

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Investor-owned electric utilities (IOUs), businesses that participate in energy efficiency and demand-side programs offered by the IOUs pursuant to MEEIA, industrial consumers.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes___ No_X__

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.