

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

**4 CSR 240-3.163 Electric Utility Demand-Side Programs Investment Mechanisms Filing and Submission Requirements**

**Relationship with IRP-**

OPC- Disappointed to see rule moving away from connection with IRP rules. Thought there was a majority support for this link. Makes sense if looking at portfolio of programs rather than program by program basis.

NRDC- Happy to see less of a link. Would like them even less linked going forward. Concerned about remaining link if IRP analysis has to be done every time a program is approved, modified or discontinued.

OPC- Process would need to be streamlined to be efficient.

AUE- Agrees with OPC. The reason why IRP exists is to evaluate DS programs vs. supply side programs. Doesn't make sense to disconnect this process. To not use this information would be wrong.

OPC- This type of proposal would work well in restructured states that don't have an IRP process. It is important to look at entire picture at once.

AUE- What comes out of IRP is a point of view under uncertainty of the supply cost a utility faces and how demand-side programs fit into this.

DNR- Agrees with NRDC. Would like to see less of a link. IRP process is a long term planning process and thinks this rule should be an implementation of DSM. Doesn't think will get to all cost effective if it is linked to the IRP. Have had difficulties getting utilities to even model significant higher levels of DSM.

KCPL- Wasn't clear what the intent of the rule is with regard to link with IRP. What is the intent of the language? Is there an obligation on behalf of the utility to seek approval for all programs included in the IRP?

AUE- Doesn't think the IRP process is the problem, the misalignment of incentives is the problem. That is what this legislation is addressing.

OPC- Has anyone thought of the significant resource demands this rule is imposing? i.e. potential studies, filing of programs on individual basis, etc. Need to make sure we are not setting up unnecessary processes.

Rich- 2 pretty distinct views on how this could go.

NRDC- What OPC said is why she is troubled by link. Could imagine many proceedings develop because of the link.

OPC- Sees it as portfolio of programs from preferred resource plan is filed rather than setting IRP on the shelf and starting over.

NRDC- They are in agreement on the use of portfolio vs. program. If a new program is proposed, would the IRP have to be redone for that program.

OPC- Not unless the program is extremely different.

AUE- Thinks staff is trying to allow programs to respond to market and difficulty with aligning to IRP. How do we use the essence from IRP, use the results of this to inform program designs that come up between IRP?

Staff- Requested language from stakeholders.

DNR- DSM programs are not approved in the IRP process. Currently for the programs that come out of IRP, if changed, utilities are being told they need to go back through the analysis. Doesn't want this to happen. Everything should not have to go back through. EnerNoc- There has to be some type of middle ground. Most of the value is going to be their long term resource value, but one of the attributes of DSM programs is that they are very quick to create rather than a supply side resource. It somehow needs to be both. Wouldn't want a program to be precluded due to concerns about link with IRP process.

*PURPOSE: This rule sets forth the information that an electric utility must provide when it seeks to establish, continue, modify, or discontinue a Demand-Side Programs Investment Mechanism (DSIM ). This rule also sets forth the requirements for submission of information related to DSIM rate adjustment filings and for submission of annual reports as required for electric utilities that have a DSIM.*

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

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

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

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

(D) 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.

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

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

(G) Demand-side programs investment mechanism or DSIM means a tariff which allows the utility to recover the historic costs of approved demand-side programs and to receive a utility incentive or penalty based on the achieved performance level for approved demand-side programs.

(H) 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 rate class.

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

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

(K) 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.

(L) Net benefits means

(2) When an electric utility files to establish a DSIM as described in 4 CSR 240-20.092(2), the electric utility shall file 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.

(A) An example of the notice to be provided to customers as required by 4 CSR 240-20.092(2)(K);

(B) An example customer bill showing how the proposed DSIM shall be separately identified on affected customers' bills;

(C) Proposed DSIM tariff sheets;

(D) A complete explanation of the design and intended operation of the proposed DSIM;

(E) Estimates of the effect of the DSIM on customer rates and average bills for each of the next three (3) years for each customer class;

(F) A complete explanation of how the DSIM rates shall be established and adjusted to reflect over-collections or under-collections;

(G) 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;

(H) A complete explanation of the design and intended operation of any utility incentive in the proposed DSIM;

(I) A proposal for how the commission can determine if any DSIM utility incentives are aligned with helping customers use energy more efficiently; and

(J) Annual reports, if any, as required by 4 CSR 240-20.092(8).

(3) When an electric utility files a general rate proceeding following the general rate proceeding that established its DSIM as described in 4 CSR 240-20.092(2), in which it requests that its DSIM be continued or modified, the electric utility shall file with the commission and serve parties, as provided in section (9), the following supporting information as part of, or in addition to, its direct testimony. Supporting workpapers shall be submitted with all models and spreadsheets provided as executable versions in native format with all formulas intact.

(A) Information as required by section 2(A) through (J) of this rule; and

(B) Explanation of the proposed modification to the DSIM and why the proposed modification is being requested..

(4) When an electric utility files a general rate proceeding following the general rate proceeding that established its DSIM as described in 4 CSR 240-20.092(2), in which it requests that its DSIM be discontinued, the electric utility shall file with the commission and serve parties, as provided in section (9), the following supporting information as part of, or in addition to, its direct testimony. Supporting workpapers shall be submitted with

all models and spreadsheets provided as executable versions in native format with all formulas intact.

(A) An example of the notice to be provided to customers as required by 4 CSR 240-3.092(3)(D);

(B) A complete explanation of how the over-collection or under-collection of the DSIM that the electric utility is proposing to discontinue shall be handled;

(C) 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 and/or to receive a utility incentive;

(D) A complete explanation of any change in business risk to the electric utility resulting from discontinuation of a utility incentive 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; and

(E) Any additional information that may have been ordered by the commission to be provided.

(5) Each electric utility with approved demand-side programs shall submit, with an affidavit attesting to the veracity of the information, annual reports, which shall be treated as highly confidential, as required in 4 CSR 240-20.093(6) to the manager of the energy resource analysis section of the commission, OPC and others as provided in section (9). The submittal to the commission may be made through the commission's electronic filing and information system "EFIS." Annual reports will 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:

Rich- Do annual reports need to be classified as highly confidential?

DNR- Are quarterly stakeholder meetings confidential? If they are, then they don't have a problem with this. Should conform with current proceedings.

OPC- Has a concern with the highly confidential classification. Some information may need to be, but would suggest current version of IRP rule as a model with some type of a executive summary.

Rich- Could be aggregated to where no customer information is given.

OPC- Things like a listing of all programs the utility has should not be highly confidential.

Rich- Asked for language.

NRDC- Has never seen so much information be considered as highly confidential. Thinks program savings should be available to anyone who wants to see them.

Rich- Iowa has information come in, the commission further aggregates it, etc.

NRDC- Iowa is a great model, but doesn't know why raw data can't be available. Quarterly reports doesn't have a column for estimated lifetime savings of measures and in annual report too.

OPC- Commission already has rules of what is confidential. Just take out this phrase and leave it up to existing rules.

Renew MO- Highly confidential is too broad.

(A) List of all approved demand-side programs and the following information for each demand-side program for year of the annual report:

1. Actual revenues collected under the DSIM;

2. Actual amounts expended under each demand-side program, including customer incentive payments;
3. Demand and energy savings impacts and the techniques used to estimate those impacts;
4. The avoided costs and the techniques used to estimate those costs;
5. The estimated cost-effectiveness of demand-side programs;
6. The estimated net benefits of demand-side programs;
7. For each program where one or more customers have opted out of demand-side programs pursuant to Section 393.1075.7, RSMo Supp 2009, a listing of the customer(s) who have opted out of participating in demand-side programs;
8. Copy of all EM&V reports, if completed for the annual reporting period; and
9. Demonstration of relationship of approved demand-side programs to demand-side resources in latest filed 4 CSR 240-22 compliance filing.

(6) If the electric utility is not submitting a Surveillance Monitoring Report as required in 4 CSR 240-3.161(6) then it shall submit a Surveillance Monitoring Report in the form and content required in 4 CSR 240-3.161(6).

(A) Quarterly progress report. In addition to the requirements under 4 CSR 240-3.161(6), each electric utility with a DSIM shall submit as page six of the surveillance monitoring report a quarterly progress report.

(B) Quarterly progress reports shall be in the following sample format and all models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

1. ADD SAMPLE QUARTERLY PROGRESS REPORT

(7) EM&V reports shall document, analyze and prove any applicable recommendations for at least the following and all models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

(A) Process evaluation and recommendations for improvement;

Rich- seems to suggest more frequent process evaluations that what is typically traditional. Process evaluations tend to happen from time to time. Is this language what you want to see?

OPC- Process evaluations are generally helpful for all programs. Are there types of programs for which this may be unnecessary? This is in some way a consumer protection to know how programs are being operated.

Rich- The question is how regularly do you do a process evaluation on everything. The norm is that you focus on a few things every time. The collaborative could help identify a focus.

OPC- Could just include a minimum here. Probably not a one size fits all approach. If they are a new program, the utility may generally want to do a process evaluation.

Rich- Maybe the choice should be made in EM&V plan.

Dan- Do you have to do a process evaluation every time you do a report. Maybe the wording needs to be such that it doesn't imply that every time you do a new report that you do a new process evaluation. Just a clarity of language issue.

(B) Impact evaluation;

1. The lifetime and annual gross and net demand savings and energy savings achieved under each program, and the techniques used to estimate demand savings and energy savings; and

2. A demonstration of the cost-effectiveness of the program.

A. If a program is determined to be not cost-effective the electric utility shall identify the causes why and make the appropriate program modifications. The fact that a program proves not to be cost effective shall not be grounds for disallowing cost recovery.

B.

(8) [IF IT IS DETERMINED THAT ANNUAL ADJUSTMENTS OF DSIM RATES ARE UNLAWFUL, THE ENTIRE SECTION (8) WILL BE DELETED FROM THIS RULE] When an electric utility files tariff sheets to adjust DSIM rates as described in 4 CSR 240-20.092(4) with the commission, and serves upon parties as provided in sections (9) and (10) in this rule, the tariff sheets must be accompanied by supporting testimony and at least the following supporting information and all models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

(A) An example of the notice to be provided to customers as required by 4 CSR 240-20.092(2)(D);

(B) Amount of revenue that it has over-collected or under-collected through the DSIM by rate class;

(C) Proposed adjustments or refunds by rate class;

(D) Electric utility's short-term borrowing rate;

(E) Proposed adjustment to the current DSIM rates;

(F) Complete documentation for the proposed adjustment to the current DSIM rates;

(G) Annual report as required by 4 CSR 240-3.164(5); and

(H) Any additional information that may have been ordered by the commission to be provided in the previous general rate proceeding.

(9) Party status and providing to other parties affidavits, testimony, information, reports and workpapers in related proceedings subsequent to general rate proceeding establishing, modifying or continuing a DSIM.

(A) A person or entity granted intervention in a general rate proceeding in which a DSIM is approved by the commission, shall be a party to any subsequent related periodic rate adjustment proceeding without the necessity of applying to the commission for intervention. In any subsequent general rate proceeding, 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 annual DSIM rate adjustment proceeding or general rate proceeding to modify, continue or discontinue the same DSIM shall be served on or submitted to all parties from the prior related general rate proceeding and on all parties from any subsequent related periodic rate adjustment proceeding or general rate case to modify, continue or discontinue the same DSIM, concurrently with filing the same with the commission or submitting the same the manager of the energy resource analysis section of the commission and OPC.

(B) A person or entity not a party to the general rate proceeding 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 general rate case to modify, continue or discontinue the same DSIM. If no party to a subsequent periodic rate adjustment proceeding objects within ten (10) days of the filing of an application for intervention, the applicant shall be deemed as having been granted intervention without a specific commission order granting intervention, unless within the above-referenced ten (10)-day period the commission denies the application for intervention on its own motion. If an objection to the application for intervention is filed on or before the end of the above-referenced ten (10)-day period, the commission shall rule on the application and the objection within ten (10) days of the filing of the objection.

(10) Each general rate case proceeding where the commission may approve, modify, reject or discontinue a DSIM shall comprise a separate case.

(11) 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.

(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.

#### **Rule Review**

Wal-mart- Only sees an issue with number 4- modifications of programs. If a program is reviewed after 4 years, costs could get high for the ratepayer.

Rich- Clarified that we are discussing paragraph (13) not the program plans.

DNR- What is the timing for when utilities are going to start filing their programs? Is this enough time for us to get enough experience?

Staff- Nothing in rule.

OPC- DNR makes a good point, maybe back it off one year. If the rule is really not working, there are other ways where things could be revisited earlier to revise this rule or utilities could get variances for certain provisions.

Rich- Could have 2 fully executed program years which would bring us into 2015.

OPC- 2 or 3 fully executed years.

Sierra Club- As much information should be available to stakeholders as possible so that there can be a complete review.

OPC- Could set a time period- no later than 3 years after the rule is effective.

Henry Robertson- Doesn't think this section really does anything. Only says what the commission can do already.

Rich- May is different than shall.

**Other Issues? None.**

