

SB 376 Issues Framework

for May 17 & 18, 2010 Workshop

Cost Effectiveness

Issue and Initial Draft	Initial Comments	May 2010 Workshop Comments
<p>1. Achieving statutory goal of all cost-effective demand-side savings</p> <p>Demand-side savings included in a utility’s preferred resource plan shall be deemed to meet a statutory goal of achieving all cost-effective demand-side savings.</p>	<p>KCPL & MIEC- “All” may be substituting more expensive demand-side resources over supply side.</p> <p>OPC- Cost effectiveness needs to be defined better in rule. Is it cost effective compared to supply side resources?</p> <p>NRDC and DNR- The statutory goal is achieving all cost effective demand-side savings. There may be some confusion between all cost effective potential and cost effective programs.</p> <p>NRDC written comments- rule should specify that the Commission’s review of a utility’s plan will result in rejection of the plan if it fails to capture all of the cost-effective savings achievable in that utility’s service territory. The rules need to specify how the Commission will determine whether this requirement is met.</p> <p>DNR- Somehow compare programs implemented to the potential study to determine whether there is more potential.</p>	<p>PSC Staff – The Commission will judge what all cost-effective demand-side savings means. The Commission will use information in the utility’s preferred resource plan, DSM market potential study, EM&V reports, annual reports, and other documentation it feels is necessary to judge all cost-effective demand-side savings. A learning curve is expected, but continuous improvement and increasing targets will be the norm.</p>
<p>2. Cost effectiveness tests</p> <p>Results of the 5 benefit-cost tests are included in the demand-side program plan content.</p> <p>Draft does not indicate how the 5 tests will be used.</p>	<p>OPC- How are 5 benefit/cost tests used? Doesn’t think RIM has anything to do with “it” (?)</p> <p>NRDC - There may be some confusion between all cost effective potential and cost effective programs. Statute indicates TRC test should be the cost effectiveness test. Doesn’t think other tests need to be performed if it meets TRC test. Maybe other tests should be performed if it doesn’t meet TRC.</p> <p>NRDC written comments- In some places, the current draft suggests that programs that fail the TRC should be eliminated; however, there are some programs that provide worthwhile benefits such as market transformation programs that fail the TRC test. The rules should allow the flexibility for some programs not to meet TRC, so long as the portfolio meets the TRC.</p> <p>MIEC- Legislation does not say that TRC is the preferred test, but a preferred test.</p>	<p>PSC Staff - Legislation does not say that TRC is the preferred test, but a preferred test. The Commission will judge what all cost-effective demand-side savings means. The Commission will use information in the utility’s preferred resource plan, DSM market potential study, EM&V reports, annual reports, and other documentation it feels is necessary to judge all cost-effective demand-side savings. All of the benefit/cost test can be calculated. Staff believes that none of the tests should be used exclusively to determine “cost-effective” programs. As defined by Chapter 22, all demand-side programs that have a TRC >1 should be passed on to integration as a possible resource. If the utility implementation of the preferred plan does not include all of the demand-side programs that are included in the plan with the lowest PVRR, the utility must explain why it did not implement all of the demand-side programs in the plan with the lowest PVRR.</p> <p>Legal Issues: Rich- Definition of TRC test for MO seems like what other states use for utility cost test.</p> <p>Is there any confusion of screening tests with regarding to preferred test or definition?</p> <p>Henry Robertson- “A preferred test” means it is preferred over something.</p>

		<p>Thinks TRC should be primary test. Argues that RIM test should not be a preferred test because it does not encourage DSM programs.</p> <p>KCPL- By defining utility costs and not including participant costs, you are not capturing all cost effective savings. Also, probable environmental compliance costs provide view of costs that is not accurate. California Standard Practice Manual expands incremental costs to regardless to who is paying.</p> <p>MIEC- Doesn't read definition of TRC to exclude participant costs. Didn't see definition as a problem.</p> <p>Legal Issue:</p> <p>OPC- Really a cost recovery issue: One limitation is section that says that cost recovery is allowed only if benefits are provided to customers in each customer class. Could be as simple as societal test on entire portfolio. How does this relate to IRP are there any inconsistencies here?</p> <p>Rich- What else does the rule need to say about cost effectiveness? Heard earlier that RIM test should not be used for screening.</p> <p>NRDC- Fact that the statute says that TRC is the preferred alternative means that this should be the primary test. If the TRC isn't clear, the societal test or _____ could be used.</p> <p>MIEC- Should include in TRC test the EM&V associated with the programs. If there is any controversy then this should be put in. RIM shouldn't be used for screening, but would like to see it still calculated.</p> <p>KCPL- Goes back to all incremental costs.</p> <p>Staff- Can do other tests. Could agree to other things with TRC as long as it doesn't change statutory definition. More than just TRC, but also needs to go through integration.</p> <p>Rich- There is the issue of educational and low-income programs. Asked utilities how far below the benefit/cost ratio is good enough?</p> <p>KCPL- Begg the question of the value of public benefits. Should you put a floor?</p> <p>EDE- Level of cost effectiveness for education and low income programs should be based on the portfolio to pass the test and to the extent it drops the portfolio down, it is too heavily loaded.</p> <p>OPC- Concern with relying solely on test. Need a qualitative test to determine if it is in the public interest. Somehow the rule needs to reflect the same public interest test as stated in the statute. Considerations could be does this address the unique needs of low-income consumers in a reasonable manner?</p>
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		<p>Rich- metrics? Certain number of low-income customers served? Marketing accomplishments? Delivered through existing weatherization program?</p> <p>OPC- The needs of low-income customers might have seemed predictable up until the last couple of years. Uncertainty of characteristics of low-income populations due to economic issues.</p> <p>Rich- could get some specific information about low-income customers in potential study and EM&V and then at this point write that use info from potential study and EM&V at this point.</p> <p>OPC- Low-income issues can be coupled with weatherization programs, disconnects, bad debt, etc. Sometimes, a wider context needs to be taken into consideration when implementing low-income programs.</p> <p>AUE- Agrees with Ryan (OPC). Came up with good low-income pilot program in rate case. Gets at some of the wider issues of the low-income population. Would like this to come out through the stakeholder process and remain silent on this in the rule.</p> <p>KCPL- Quality v. efficiency is a big trade-off. How much money is required for the social benefit? So, just look at how much money do we want to allocate to these programs.</p> <p>Rich- What about public education or marketing? Do we want to say anything about this? A lot of money going out the door and not a lot of savings.</p> <p>NRDC- A lot of states she works in have a % limit of budget that can be used for program costs. Skeptical of benefits of these. (Public education outside of general marketing program.) Generally, in favor of having a tight limit of how much funding can be used for the purpose.</p> <p>KCPL- Unsure if it should be subject to the societal test. Would propose that this be taken out of draft.</p> <p>Dan York- Not sure if k-12 programs fit within these types of programs.</p> <p>OPC- There are different types of public education. Example: a new construction program for residential or commercial is part of a program that works. These educational efforts should be looked at program by program and if they work. Then, there are other educational programs that stand alone. Hard to quantify cost/benefits of these. There are some tangible benefits that lead to higher participation rates.</p> <p>Rich- Challenge: These programs have fairly certain benefits in the horizon of the program rather than looking at is as a foundational thing/looking at for the long run. Benefits are a little less clear, especially when getting started. How do</p>
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		<p>deal with programs that have difficulty showing benefits so that it is more clear when we get into approving the programs?</p> <p>OPC- May sometimes have a concern that some public education programs benefit brand equity rather than benefiting the public.</p> <p>AUE- Marketing is a big deal in the DSM world. Portfolio marketing costs and program marketing costs. Some concepts are harder than others. Customers understand energy efficiency rather than demand response. Critical piece of this legislation and should be recognized as such. Look at some of the language in PURPA 2005 and see if we can't incorporate some of that into the rule.</p> <p>AUE- General awareness of energy usage- should have some recognition in the rule that this is a policy of the state of Missouri/level setting and shouldn't have to go through some specific kind of evaluation, etc. Just because it has a utility brand on it, doesn't mean the issue is black and white because that can help. There are tests that they use for marketing, perhaps these can be built in as decision criteria.</p>
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Energy Efficiency

Issue and Initial Draft	Initial Comments	May 2010 Workshop Comments
<p>3. Third party energy efficiency programs</p> <p>Not included in draft.</p>	<p>ECS- Rule should acknowledge that there could be market based programs through RTOs/ISOs similar to New Jersey or New York. Written as if it is a utility driven program. Need to determine how this may play out if it is an RTO/ISO program (i.e. a curtailment program that MISO develops.)</p>	<p>PSC Staff- This issue is to be investigated in EW-2010-0187. The Commission clearly severed these issues in separate dockets. SB 376 speaks in terms of utilities.</p> <p>MEDA - Lost revenues should include the impacts of third party energy efficiency programs.</p>
<p>4. Does “energy efficiency” apply to utility infrastructure investments?</p> <p>Not included in draft.</p>	<p>AUE- Should be defined as broadly as possible. Utility infrastructure investments would be appropriate.</p> <p>NRDC- If rule captures this; it should be included in potential study too.</p> <p>OPC- Skeptical if this is the legislative intent. Wouldn't be a lost revenue issue as there is a different incentive structure for the utility.</p>	<p>PSC Staff – No. SB 376 defines “energy efficiency” as measures that reduce the amount of electricity required to achieve a given end use.</p> <p>MEDA - The definition of energy efficiency should be broad enough to cover utility infrastructure projects that reduce energy.</p> <p>Legal Issue: Scope of rule (1) efficiency . demand response and (2) distinction between end use efficiency and utility side efficiency.</p> <p>NRDC- Doesn't think that utility side efficiency should be included. Energy efficiency definition refers to end use.</p> <p>AUE- There is one exception- conservation voltage reduction measures- can create loss revenues similar to EE programs directed at customers.</p> <p>KCPL- Line loss. 5-7% more than what you see at the meter.</p>
<p>5. Should utility potential</p>		<p>PSC Staff – Rule should require that a</p>

<p>studies be based on primary data? How often should the utility potential studies be updated?</p> <p>Potential study required as part of DSM plan filings. Frequency of updates not specified.</p>	<p>current utility market potential study using primary data be filed with demand-side program plans. Potential study should be updated with primary data no less frequently than every other Chapter 22 triennial compliance filing.</p> <p>KCPL- What is definition of primary data. Have done some customer surveys and followed up with telephone customers. Commercial sector was a little different, divided up market segments. Do we have to go out to every industrial customer to collect data because they do not typically do this?</p> <p>Staff- Means don't use to DOE region that has N. Dakota in it. Don't have to visit every customer. Can get an idea of characteristics of customers without visiting them. Primary data is samples of each company's customers.</p> <p>Sierra Club- Good goal, but often have to use experiences from other states. Don't want to be in a position that we rule out promising programs because we don't have primary data.</p> <p>AUE- We now have some pretty good primary data sets in the state that will be updated every couple of years. Good start.</p> <p>DNR- The role of sampling is behind a lot of this discussion. If there are standard building types, how much you need to investigate those.</p> <p>Jim Fischer- When you are talking about developing primary data, need to take into consideration of the cost and make sure that this cost can be recovered.</p> <p>Rich- potential studies are really expensive. A schedule to do them may or may not match the need to do them. Sometimes you may want to do something narrower across a segment more frequently and across the entire population less frequently. Are the words the right words/details the right details? Could have a more function definition rather than driven by a schedule.</p> <p>DNR- Unsure of the idea that every utility needs to have their own potential study.</p> <p>Dan York- once you get into EM&V get constant feedback loop. Potential study is periodic look of big picture. But also want in-depth research in certain segments. Ongoing part of evaluation.</p> <p>AUE- What are you going to use it for in the rules and then how important is it? And if you have it how long can you keep it going with supplemental information.</p> <p>Rich- Staff wants to make sure there is ongoing information without it getting stale.</p> <p>Sierra Club- Hard to talk about in the abstract. Has to be backed up by creditable studies. You know it when you see it.</p>
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Demand-side Program Plan

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6. Should approval of the demand-side program plan be part of a contested case? Frequency?	<p>AUE- Contested case would require a lot of effort. A multi-year process may need to be considered, i.e. 3 year implementation plan.</p> <p>DNR- IRP process is not sufficiently binding for implementation.</p>	<p>PSC Staff – No. Demand-side plan approval can be filed at any time under a case number.</p> <p>MEDA - Utilities should determine when to file based on their own schedules.</p> <p>Legal Issue:</p>

Drafted as contested case, annually.	<p>OPC- Agrees with DNR. The Commission does not explicitly approve IRP. Demand-side program plans should be approved.</p> <p>NRDC- Agrees with DNR and OPC. Although most states have this process every couple years, doesn't think this has to happen every year.</p>	<p>NRDC- Regardless of what you call it, there desire is to provide testimony as if it is a contested case. Thinks detail will not be worked out in IRP, but in these plans.</p> <p>DNR- Agrees with NRDC. Want the opportunity to review testimony. Not sure of difference of contested vs. non-contested, but needs to be a case where parties are involved.</p> <p>OPC- Agrees with NRDC and DNR. Even if not contested case, should have all of these characteristics- evidence, testimony, etc.</p> <p>Jim Fischer- Under Administrative Procedures Act contested case is defined if hearings are required by law. Doesn't think that this is the case here, but there is no reason why the Commission cannot do these things.</p> <p>MIEC- Could make the case that some law in MO requires a hearing.</p>
<p>7. Should prudence review be in rule at all?</p> <p>Includes prudence preview as part of demand-side program plan approval.</p>	<p>OPC- Would envision cost recovery to take place in a rate case and would envision that is where prudence would be addressed. Could just say prudence will be addressed in next rate case where cost recovery is addressed.</p>	<p>PSC Staff – No. Prudence review will occur during rate case process.</p> <p>MEDA - Existing prudence standards should apply; therefore this should be removed from the rule.</p>
<p>8. Modification of demand-side program plan/overrun of budget</p> <p>If annual budget changes plus or minus 10%.</p>	<p>KCPL- 10% is tight</p> <p>Dan York- One consideration would be what costs overruns would get the Commission's attention on the supply side?</p>	<p>MEDA - The modification process needs to be nimble and responsive. The modification criteria need to be set in such a way they capture large changes. Currently there are concerns that some of the bounds are too tight.</p> <p>AUE- Have modifications be as responsive from what is coming out of the market and as quick as we can make it. Maybe modifications can come out of stakeholder process. Doesn't have a number now, but if at program level, it needs to be a larger number than 10%, could be around 10% at portfolio level.</p> <p>Rich- What about if costs are to be assigned to a different customer class?</p> <p>AUE- If we have a forward looking system.</p> <p>AUE- There should probably be a strong tie with the expectations of the approval process and expectations of tariff process. Open to this being a part of the rule. Also, depends on detail of approval process, this will influence what these parameters need to be.</p> <p>Staff- If this was left broad and they don't have to notify commission for every change, what do parties think about the ability of other parties to petition the commission if they think the commission should be notified.</p> <p>AUE- May be a recipe for grid lock. If we are going to allow petitions from other people, then the rule should state when those should be allowed.</p> <p>OPC- Couple ways to look at a program changing such a plans reflected in a</p>

		<p>budget or other changes that are unplanned, ie. Response to changing economic conditions. Either can create just as big of a change. Something more like 20-25% might be a more appropriate number for a program change, and also agrees that the portfolio budget change should be a smaller amount. Staff’s draft needs a little more fine tuning on details.</p> <p>AUE- Program changes are important, especially if there are incentives so that they can change things that aren’t working. Need to have some clarity on other program changes that aren’t necessarily budget changes. Also, what happens after 14 days for parties to respond. Needs to be a process for program change, but it also needs to be flexible.</p> <p>Sierra Club- This may be another area where it may not make sense to apply generic standards to specific circumstances. The company may propose thresholds...</p> <p>Henry Robertson- Procedural schedule should be fleshed out here. Also concerned about language that the “...utility may constrain implementation...” but wants us to remember that the goal is all cost effectiveness.</p>
<p>9. Should there be a requirement to include joint gas and electric programs?</p>	<p>OPC – Program plans should include a description of any efforts to coordinate or jointly implement programs with other utilities or between gas and electric utilities where a measure or program results in both gas and electric savings.</p>	<p>PSC Staff – No. However, joint programs should be encouraged by the Commission and included in program plans, EM&V and annual reports.</p> <p>MEDA - No.</p> <p>How to encourage state-wide plans? Should the rule address this? Electric and gas collaboration?</p> <p>OPC- Supports exploring this. The question is how do you do it and how do you know where it is beneficial? Arkansas commission has issued some orders that ask them to document the attempts they have made to have joint program with gas utilities in their service area. Thinks the way to encourage it is a requirement for the utility to report on their efforts of doing this. Some areas have larger potential than others. Directs the utility to look at doing this where it makes sense.</p> <p>NRDC- The Commission could direct the collaborative to do this either in the rule or through bringing gas companies in to the collaborative. Another benefit of giving the electric collaborative direction and authority.</p> <p>KCPL- Electric utilities do not get any avoided costs in the increased gas efficiency. The gas company would have to calculate the economic benefits of this. Often times, these savings are propriety and confidential information. How do we share this information to evaluation to cost/benefit impact?</p> <p>OPC- Good questions. It is doable, just a matter of coming up with a methodology. We don’t want savings to be claimed by</p>

		<p>both utilities. There has been some recent progress in the state between electric and gas companies and how they divide the savings of customer commercial programs between the utilities. There are obvious benefits for being able to have a single point of contact for a customer for both electric and gas utilities. Need to find a way to get past the single utility concerns to achieve all cost effective savings.</p> <p>Noranda- If there are statewide programs, there is a leadership vacuum. Doesn't really make sense for the utilities to propose it. Organizations with statewide interest could be proposing this. There are areas where this works and where it doesn't. The question is how you evaluate the value of statewide programs. Hard for individual companies to determine this. Question is where do you start?</p> <p>Rich- Collaborative could be the place if given the authority by the commission.</p>
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Calendar/General Process

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<p>10. What is the calendar for this rule?</p> <p>Not included in draft.</p>		<p>PSC Staff – See Staff’s suggested calendar for synchronizing electric utility resource planning and demand-side program planning.</p> <p>MEDA - There should be a multi-year implementation period after program approval.</p> <p>KCPL- Where does cost recovery fit into this timeline? Should start discussion with issue 18.</p> <p>AUE- Cost recovery not in schedule. Appreciates multi-year plan. Not sure if they can file DSM plan 3 months ahead of risk analysis in IRP. Will have to think about this. Annual EM&V will due; however, there will continuous feedback during stakeholder process.</p> <p>John- No overlap. Simultaneous.</p> <p>Janet Wheeler- The Commission has not promulgated new Ch 22 rules and this may affect this workshop.</p>

Demand-side Investment Mechanism- General

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<p>11. Can investment mechanism be adjusted between rate cases?</p> <p>Demand-side investment mechanisms are established in a rate case, but can be adjusted between rate cases.</p>	<p>OPC- Rule should be within bounds of the law. Doesn't see anything in SB 376 to allow rate adjustments between rate cases. Need to have a lot more discussion regarding lawfulness of this.</p> <p>AUE- Is the statutory authority for the investment mechanism SB 179 or SB 376?</p>	<p>PSC Staff- The statute doesn't permit rate adjustments between rate cases. “Timely cost recovery” language of SB 376 doesn't give us enough to get to between rate case rate adjustments, because the investment mechanisms listed in the statute are all things that can be done in a rate case.</p> <p>Also, when the legislature has intended recovery between rate cases it has done so explicitly – 386.266 RSMo (SB 179) and 393.1000 - .1015 (ISRS) - and even the voters have – 393.1020 -.1030 (Proposition C).</p> <p>MEDA - Yes</p>

		<p>Legal Issue- OPC- Initial draft of SB 376 allowed cost recovery mechanism, but final version clearly does not. All collection happens during rate case.</p> <p>KCPL- Disagreed with OPC on intent during drafting. Took some more sensitive items out of legislation (alternative cost recovery) in hopes to negotiate these items during rulemaking. It is not his understanding that collection can happen only in rate case.</p> <p>DNR- Should be opportunity for collection outside of rate case. Propose expensing/annual recovery and linking with annual reporting that is to be done.</p> <p>Henry Robertson- Doesn't think that intent is for all cost recovery to occur in rate cases. "Timely" means something other than a general rate case.</p> <p>Wal-mart- Refers to memo. Can accomplish decoupling through the words of the statute through rate design in a rate case. Legislation doesn't expressly address decoupling either way. Rate design should be changed so that loss of fixed costs can be addressed. Wal-mart has other economic incentives to do energy efficiency. Not sure about residential customers.</p> <p>2 distinct positions on collection.</p> <p>Rich- Any more on collection issues that hasn't already been said?</p> <p>AUE- Aligning utility incentives with pursuing DSM aggressively is the best way to achieve all cost affective DSM. This is what they feel SB 376 is about.</p> <p>Rich- Difference between compliance and innovation.</p> <p>AUE- Utilities want to pursue energy efficiency as long as it is not something that is going to increase risk or harm shareholders. As long as it is an investment that makes sense, it is attractive. We need to own the fact that there are some disincentives. SB 376 gives us the power to act on these disincentives. How we deal with disincentives is directly linked to DSM.</p> <p>KCPL- Agrees with AUE. Really all about aligning incentives. Problem with DSM investments is the throughput incentive. Not on a level playing field. Deal with this everyday. Unless we align disincentives you will get the same level of investments you have seen in the last 100 years.</p> <p>Rich- Asked utilities: What do you want to see in the rule?</p> <p>AUE- The feel they are looking for says: We understand this is a risky undertaking...</p> <p>Rich- Risk is that they are going to be held to some performance standards.</p>
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<p>12. Dependency of Investment Mechanism upon EM&V</p> <p>There is a dependency upon EM&V.</p>	<p>OPC- In a situation where a utility is asking for lost revenues, need to have some handle on the savings that year.</p> <p>AUE- Would prefer to take care of upfront.</p> <p>KCPL- If we moved this forward it could be the outcome of the IRP process and then could true-up with EM&V process.</p>	<p>PSC Staff – The appropriateness of an investment mechanism will be determined in a rate case. Recovery shall not be permitted unless the programs “result in energy or demand savings and are beneficial to all customers in the customer class in which the program is proposed.”</p> <p>MEDA - The cost recovery mechanism should be determined at the time of program approval. Any true-up of performance targets should be dependent on EM&V results.</p>

Demand-side Investment Mechanism- Cost Recovery

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13. Should the regulatory asset continue to be	AUE- Earnings and cash flow are important to his company. To the	PSC Staff – Yes, as currently used but

<p>used? What provisions?</p> <p>Regulatory asset account</p>	<p>extent that a mechanism provides earnings support, but not cash support, it is an inferior solution.. Illinois has a rider.</p> <p>MIEC- Even with 20 year amortization, it is still superior to supply side.</p> <p>DNR- Capitalization method is at odds with rest of Midwest. Other Midwestern states are expensing to further energy efficiency.</p> <p>OPC - Thinks amortization period is too short. Suggests replacing 3 years with no more than 6 years.</p> <p>NRDC written comments- Under the rules as drafted, Missouri will emerge as one of the least favorable states in terms of financial risk for utility investments in energy efficiency, largely due to the insistence that program expenses be carried in a regulatory asset account and recovered only after the program is implemented and evaluated. Recommends expensing of costs approved by the commission as part of a plan filing, with a balancing account to allow flexibility for programs where participation raters are either higher or lower than expected. (See NRDC written comments submitted in EFIS for more detail).</p>	<p>with amortization periods established by the Commission.</p> <p>MEDA - DSM costs are expenses. We should minimize the size and use of the regulatory asset. The regulatory asset may be a tool that can track variances until true-up in a rate case. Also international accounting standards (like IFRS) may impact the viability of the continued use of the regulatory asset model.</p> <p>Legal Issue: Accrual</p> <p>i.e. after program year, before program year or after EM&V?</p> <p>AUE- Valuing demand-side and supply-side resources equally. Utility executive team reviewing one set of proposal with some regulatory lag but will not impact sales. To the extent that you lag collections with accrual (cash lag on energy efficiency side) and lost revenue there is a fundamental disincentive to invest in energy efficiency. This is the intent of SB 376. To the extent that this is not addressed, it will still be a barrier. The Commission and Staff have the power the ability to address 90-100% of these concerns related to these issues.</p> <p>MIEC- There are some types of accrual that could be considered unlawful or are allowed under the statute. Need to clarify what exactly we mean by accrual. There is a prohibition in MO for single issue ratemaking (collection).</p> <p>Rich- Are there any legal issues Staff needs to consider with regard to accrual?</p> <p>DNR- Doesn't think that statute supports having to wait until EM&V is completed for accrual of costs.</p> <p>No responses with regard to legality of a specific accrual mechanism. This is more of a policy decision.</p> <p>Accrual Issue:</p> <p>DNR- Position begins with provision for annual report. Annual report should set accrual levels. Like accrual at the end of the program year. Would like to be able to look at a plan and see costs and expected savings through the duration of the plan.</p> <p>AUE- We have trackers that are implementing the reliability rules that are forward looking. That precedent is established. It is critical. Policy now is to take expenses and amortize them over 6 years and provide no cash support.</p> <p>MIEC- Understands utility position. Current mechanism with capitalization and amortization allows them to accrue earnings as they occur. This is actually superior to supply-side. Doesn't see a problem with regard to earnings prospective. From a cash flow perspective, supply side recovered 40 or 50 years. In his opinion the difference is the level of risk. Hard costs and</p>
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		<p>marketing costs should be characterized as long term assets. There are some short term assets that he would not have a problem with accruing sooner. Has to be some type of match of payment for options and their recovery. Are opposed to decoupling and a rider. Shared savings mechanism could be a mechanism in which to address the throughput mechanism once we are comfortable with savings mechanism. Puts lost revenues in same category as decoupling.</p> <p>Rich- In taking about benefits and recovery time match, it sounded like you were not attributing any special quality from SB 376 for that task. Clarify how much of a preference you see in the statute for energy efficiency.</p> <p>MIEC- Value DSM to supply side equally. All cost effective is what we were doing anyways. The question is how do you know what is cost effective? This is a reason to do this incrementally. Need to do some field work, measurements and then get some confidence in this. Then we could increase the dollar amount of expenditures. Learn as you go/take it slow approach. Helps find all cost effective resources in a way that minimizing risk.</p> <p>KCPL- Can accrue investment, but are locked into the rate. Is there a way for timely update on that rate?</p> <p>Rich- Recognizing the potential those assumptions could diverge from reality.</p> <p>OPC- Having a hard time coming up with a scenario where this amount could be significant.</p> <p>KCPL- Amortization period is 10 years.</p> <p>OPC- The rates change at point of rate case and are not fixed for the entire 10 years.</p> <p>KCPL- We are in a period where we have frequent rate cases, but there has been a time where they were not very frequent. We need to come up with a policy that encourages energy efficiency even in a time where there is an extended period between rate cases.</p> <p>OPC- A lot of the drivers for utility costs are different now and doesn't think we are going to see extended periods between rate cases in the near future. In the case of energy efficiency, you can be assured this issue will be revisited regularly in the next few years. Doesn't think this item alone is going to create a barrier for energy efficiency in the next few years. Clarification- ex. AUE going to get rate of return when they are in place at the time they have a rate case. There are lag time between rate cases that can affect a portion of there investments.</p> <p>Rich- Transitional Issues. How should Commission Staff manage this? More comfortable in a few years, but need to write rule now.</p>
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<p>14. Cost recovery approved at same time as demand-side plan.</p> <p>Cost recovery after programs are used for service and after EM&V.</p>	<p>AUE- As program plans are approved, cost recovery issues for the implementation period should be resolved at the same time. Can work out details with true-up at this time.</p> <p>OPC- Need to take into account the impact of proposed cost recovery mechanism upfront when determining cost effectiveness. Perhaps mesh plan approval with cost recovery as AUE previously mentioned.</p> <p>NRDC written comments- NRDC agrees with the Staff that customers should not pay expenses for programs that are not prudently implemented, and that independent evaluation to determine whether the programs were faithfully implemented, and are providing cost-effective savings is essential to the success of the program. However, there is ample experience with mechanisms by which revenues and expenditures are reconciled annually so that over-recoveries and under-recoveries are properly accounted for, and for prudence reviews to allow for refunds to customers for any amount that was collected or spent in ways that do not faithfully implement the commission approved program plan. Iowa, Illinois, Michigan or Ohio are examples.</p>	<p>PSC Staff- Demand-side investment mechanism and rate adjustments in rate case. "Timely cost recovery" in SB 376 doesn't give us enough to get to in between rate case recovery because the investment mechanisms listed in the statute are all things that can be done in a rate case.</p> <p>MEDA - The cost recovery mechanism should be set at the same time as program approval. If rates cannot be adjusted outside a rate case then the implementation can wait until a rate case.</p>
<p>15. If there is a cost recovery tracker, should it be for historical expenditures or based on pro forma</p>		<p>PSC Staff – Historical.</p> <p>MEDA - Prospective expenditures. Staff's rule requires a program to have "undergone" an EM&V process. The program should be eligible for cost</p>

<p>expenditures or both?</p> <p>Not included in draft.</p>		<p>recovery upon approval.</p>
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Investment Mechanism- Lost Revenues/Decoupling

Issue and Initial Draft	Initial Comments	May 2010 Workshop Comments
<p>16. Should the rule specify lost revenues vs. decoupling in dealing with the throughput incentive?</p> <p>The draft rule says that recovering lost revenues is an allowable track if decoupling is not allowed by the commission.</p>	<p>NRDC written comments- The draft rule envisions a Commission determination regarding whether decoupling will be authorized as a mechanism for addressing the throughput incentive. However, it remains a mystery where and when that determination will take place. It was proposed in a recent rate case, and deferred until a rulemaking. This rulemaking could provide that forum, but the draft language appears to defer the subject once again. The continued failure to asses the merits of decoupling and provide clear guidance for utilities who may wish to propose decoupling undermines the stated goal of aligning utility incentives with energy efficiency goals and eliminating the throughput incentive. Recommends that this rulemaking process be used as the forum for thoroughly assessing decoupling, making a determination about whether it is an accepted mechanism and providing guidance to utilities on the appropriate way to propose decoupling.</p>	<p>PSC Staff – Neither.</p> <p>MEDA - Lost revenues need to be defined and required to be covered by any cost recovery mechanism (except revenue decoupling, which eliminates the lost revenues by definition).</p>
<p>17. Lawfulness of Decoupling?</p> <p>The draft rule says that recovering lost revenues is an allowable track if decoupling is not allowed by the commission.</p>	<p>OPC- Doesn’t believe decoupling is lawful. Prepared to challenge in court.</p>	<p>PSC Staff – Not lawful.</p> <p>MEDA - Lawful, We should not preemptively eliminate “tools in the toolbox” Decoupling adjustments can wait for rate cases.</p> <p>Legal Issue:</p> <p>Henry Robertson- Thinks it is intent of statute for commission to consider decoupling as a rate design mechanism. (Section taken from federal law ARRA 410 and Purpa Standard (Rate Design).</p> <p>OPC- Decoupling was explicitly in a previous draft of legislation and it was deliberately taken out.</p> <p>Wal-Mart- Would like to see federal legislation Henry is referring to. Henry’s draft is not final, but will run some copies.</p> <p>NRDC- Read last paragraph of joint statement with Wal-Mart. Decoupling isn’t explicitly prohibited or allowed. Could be approved by Commission as a mechanism. Once approved in a rate case, annual adjustments or true-ups under the mechanism could be implemented.</p>
<p>18. Lost revenue recovery mechanism</p> <p>The draft rule says that recovering lost revenues is an allowable track if decoupling is not allowed by the Commission.</p>	<p>NRDC written comments- Lost revenue recovery mechanisms, whereby evaluators try to assess the impact of efficiency programs on recovery of fixed costs, do not address the throughput incentive. Even with a lost-revenue recovery mechanism, a utility will earn more than authorized if they raise sales between rate cases. Moreover, lost-revenue recovery</p>	<p>PSC Staff – Lost revenue mechanism is not appropriate. Missouri should focus initially on cost recovery and performance incentives/penalties and “hold” decoupling as a demand-side investment mechanism once Missouri achieves a higher level of performance for utility DSM as well as third party DSM, building codes, appliance efficiency standards, CHP, etc.</p>

	<p>mechanism can result in expensive surcharges creating customer backlash, as we witnessed recently in the FirstEnergy territory in Ohio.</p>	<p>MEDA - The rules need to specify clearly the requirements of cost recovery mechanism that address the equivalence of earnings and recovery of all program costs and lost revenues. A method to account for lost revenues is a requirement to any approved cost recovery mechanism.</p> <p>Lost Revenues:</p> <p>Rich- Should they focus exclusively on the savings from the programs the utility's do or should another other change in sales count? Many other states focus on what the programs produce.</p> <p>DNR- There is a lot of confusion about the terms lost revenues and lost margins. Believe that the incentive structure is sufficient to address lost revenues, but are not in favor of a lost margins clause. The experience in other states is that it doesn't work. Needs to be a lot more clarity in the terms.</p>
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Demand-side Investment Mechanism- Performance Incentives

Issue and Initial Draft	Initial Comments	May 2010 Workshop Comments
<p>19. Dependency of performance incentives upon EM&V.</p> <p>After independent EM&V has occurred.</p>	<p>AUE- Perhaps this can be something that should be determined at the time the Commission approves a cost recovery mechanism.</p> <p>KCPL- Agrees that evaluation for this purpose should be after the fact.</p>	<p>PSC Staff – Performance incentives and penalties should be based on results of independent EM&V and should be ordered by the Commission in a rate case.</p> <p>MEDA - Rates should be set on prospective costs and performance. The assumption is that utilities will meet performance goals. Any true-up should be done in rate case (assuming rates cannot change outside a rate case).</p> <p>Rich- What are the results that would trigger performance incentives. Typically, this is not at the end of the EM&V process. Some states allow performance incentives to be done based on the end of the year report. Are there views about this?</p> <p>DNR- There are several states that do have annual reporting of various sorts. There are also annual evaluations which presents a lot of practical and timing issues. Many of the expensing states actually have incentives that are tied to their annual cost recovery activities. Ie. Michigan. We know that evaluation is a long term activity and it doesn't necessarily resolve all of the issues that some think that is should. Missouri doesn't really have a good position about how evaluation activities produce a verifiable savings and how that translates into cost recovery. Then, various issues such as prudence, etc.</p> <p>Rich- What do you think the rules should say?</p> <p>DNR- Comes back to the annual report. Opportunity to review annual activities and estimated savings. Believes it would be good for the entire process to have documented activities, savings and costs to address this. Tie financial recovery to the report.</p> <p>Renew Missouri- Sounds like we are</p>

		getting somewhere. DNR not for go slow approach. And MIEC, if we do know they work, then we should go big. If we can somehow agree on this in the next couple days that would be helpful. Using the annual report for something other than just data would be helpful. Envisioning some type of pilot program, ie. If this program works... Doesn't think that the viewpoints expressed are mutually exclusive.
20. Penalty for poor performance No penalty provision in draft.	DNR- Thinks there should be a penalty for poor performance. AUE- The idea that you wouldn't receive something if performance is under certain % is penalty within itself.	PSC Staff – If there are performance incentives, there should be penalties. There should be 5 – 6 performance metrics. No penalty for something going wrong which is out of the control of the utility, but for utility imprudence. MEDA - The idea that you wouldn't receive something if performance is under certain % is penalty within itself. Penalties should only be in place in the context of a legal mandate and only if that mandate explicitly calls for penalties to be promulgated in a rule (similar to Prop C).
21. Performance Standards No performance standards in draft.	DNR- Should be state-wide, not utility specific. KCPL- Doesn't think it should be restricted to 75%. NRDC written comments- We applaud the Staff's inclusion of a performance incentive that reward utilities on the basis of the savings ultimately realized by the programs. We entirely agree that better performance should result in a higher incentive and would simply suggest that some additional detail as to the percentage of savings available for a given performance level should be provided in the final rule. One caveat is that typically the utility itself is not in the position of setting the performance goal against which its performance will be measured, and therefore reiterate that the Commission should promulgate performance goals as part of this rule.	PSC Staff – Commission should review and adjust each utility's performance standards based upon each utility's independent EM&V reports. MEDA - The fact that a program proves to not be cost-effective shall not be grounds for disallowing cost recovery.
22. Applicability of section 386.266.8 “In the event the commission lawfully approves an incentive- or performance-based plan, such a plan shall be binding on the commission for the entire term of the plan. This subsection shall not be construed to authorize or prohibit any incentive- or performance-based plan.”		

EM&V		
Issue and Initial Draft	Initial Comments	May 2010 Workshop Comments
23. Annual evaluation studies?	DNR- This seems impractical.	PSC Staff – EM&V is a condition of a rate adjustment and, therefore, no set

Draft includes annual EM&V.	<p>Dan York- You may not be able to develop some programs for several years.</p> <p>OPC- In a situation where a utility is asking for lost revenues, need to have some handle on the savings that year.</p>	<p>frequency should be included in rule.</p> <p>MEDA - The proposal to wait until an annual report and evaluation before cost recovery is inconsistent with aligning financial incentives and timely recovery.</p>
<p>24. Independent EM&V</p> <p>Includes independent EM&V</p>	<p>AUE, KCPL- They contract with evaluators to be independent.</p> <p>KCPL- Important for evaluator to be involved during program design phase.</p> <p>OPC- Independent EM&V is important.</p> <p>DNR- Supports Commission appointed evaluator.</p> <p>NRDC- Supports independent EM&V contractor.</p>	<p>PSC Staff- The utility hires independent evaluator and then PSC staff hires their own evaluator to review/audit and report on the utility’s EM&V process and results.</p> <p>MEDA - The utilities should manage the evaluation process with real-time oversight from a commission managed auditor of the evaluation process.</p> <p>DNR- There are only a few states in the mid-west that use staff hired evaluator. Usually, hired by utilities. You can manage independence by requiring specific evaluation standards. Doesn’t think the standards should be different from utility to utility; otherwise, they wouldn’t be a standard. Not sure if the detailed rules need to be part of this rule- would probably require a separate set of workshops.</p> <p>Rich- What do we do right now?</p> <p>DNR- In the short term, will try to come up with some language, but should include a reference to a separate document. At a very minimum, an endorsement of the PURPA rule. Results need to document validation analysis, address bias. In full document, a set of references for questions.</p> <p>Rich- Some of these items are found in a statewide technical reference manual. One way would be to describe the state-wide or utility specific technical manual that will be produced.</p> <p>DNR- Agrees. In favor of a statewide technical reference manual. Want to have a transparent system that makes the process easier. Statewide standards helps to do this.</p> <p>AUE- Want to have transparent process. AUE agrees with utility hires independent evaluator and then staff hires own auditor. The more real time that evaluator can be involved, the better. The more real time information they can get the better. Technical reference manual for the state would be a good idea. Happy to share TRMs they have put together for their programs to develop statewide manual.</p> <p>OPC- Agrees generally with DNR and AUE. Should have independent evaluator. At least for large programs. Maybe there is a cost threshold where this becomes more important.</p> <p>Rich- Scale the EM&V task to the program.</p> <p>OPC- Both to the size of the program and the cost recovery mechanism and use this to determine what needs to be measured. Utility could give evaluation approach</p>

		<p>and then there should be some back and forth.</p> <p>NRDC- Not clear in draft the role of the collaborative. The stakeholders need to see the EM&V reports as they are done and refined by the evaluators. IL- meets monthly, all day meeting. Technical staff meet first half of day, all other half. Agenda goes out the week before. Discussion could be anything from policy to quarterly reports. Have a facilitator. Statewide collaborative. Thinks statewide is good.</p> <p>AUE- Have a piece of current quarterly stakeholder meeting on this would be a good idea. The evaluation results don't come to them perfect. There needs to be some portion where they can work with the independent evaluator for quality control to make sure accurate data goes out.</p> <p>EDE- Statewide deemed savings would be very beneficial. May also consider inviting gas companies to participate in this. Sending out evaluation at every turn, really prolongs the process and may be costly. They usually get what is close to a final draft and then send it out to the collaborative. Thinks statewide collaborative would help with those with limited resources. There are similarities in programs. Could be all day meeting quarterly. Some of their programs are too small for a full process and impact evaluation. Work with evaluator to get one or the other to get some good information. How we put this in the rule is a challenge.</p> <p>DNR- Encourages of statewide discussion. Also, a separate technical track. Also agrees that first drafts can be problematic due to misunderstandings. Maybe a different statewide track. Reluctant to add another administrative structure, but that might help.</p> <p>KCPL- Depending on how to results are going to be used or how closely they will be used for cost recovery mechanism will make a difference in what they need to do. Costly, but may make a difference depending on what incentives are in place. Generally, to the extent that they are addressing lost revenues timely, their appetite may be larger. If we are talking about a 3-4 year lag, this may affect how we view EM&V.</p> <p>AUE- Might consider something that says as part of the company's demand side plan they would line out the EM&V. Then could have a change to have discussion about this.</p>
<p>25. If the utility hires its own EM&V contractor, can it recover costs?</p> <p>Not included in draft.</p>	<p>Brought up during workshop as an uncertainty.</p>	<p>PSC Staff – Yes.</p> <p>MEDA - Yes</p>
<p>26. Should there be one technical reference manual (TRM) for</p>		<p>PSC Staff – Yes. Commission will hire a contractor to develop/update one TRM for Missouri to include deemed saving</p>

<p>utilities? If so, what should be included in the TRM?</p>		<p>tables and formulas/models by climate zone. The utilities will share all costs of the developing and updating the TRM.</p> <p>MEDA - Deemed savings should be established as they can simplify and reduce expenses for programs. Net-to-gross ratios should also be established to reduce costs and evaluation risk. Costs associated with development of the TRM shall be 100% recoverable through customer rates.</p>
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Opt-out Provisions

Issue and Initial Draft	Initial Comments	May 2010 Workshop Comments
<p>27. Opting-Out/Once out stay out?</p> <p>Not included in draft.</p>	<p>MIEC- Thinks there should be detailed rules/schedule if you opt out when you can opt back in.</p>	
<p>28. If they are opting out, are they opting out of benefits too with regard to cost allocation?</p> <p>In setting rates, the Commission shall apportion the costs and benefits of demand-side programs to each customer class.</p> <p>...possibly allocate costs to the customer class in which program is designed and using a demand allocator for demand response programs or with an energy allocator for energy efficiency programs; or the allocators decided by the Commission in a rate case?</p>	<p>Noranda- Thinks opting out prevent benefits from going to the customers. Are there other benefits they (AUE) are envisioning? For larger customers, energy efficiency is a way of life and benefits have been accrued to them and the system as a whole. Ought not to ignore the benefits that have accrued to the system historically by those that have engaged in energy efficiency.</p> <p>OPC- Should the benefits be shared with non-participants? If it were not for this program, would acquire another CT and we would all share in that cost. Should that reduction in cost be shared with non-participants?/Doesn't agree we can assume they have already provided benefit to the system.</p> <p>MIEC- Supports draft; however, there has been no agreement yet on what are the appropriate allocators for demand. Large customers who are opting out are the ones that have done the most in terms of energy efficiency. These customers have already contributed a lot of benefits to the system. Nothing in statute to suggest that they shouldn't get reduction in cost.</p>	<p>PSC Staff – Rule should designate the cost allocation methodology which assigns costs to the customer classes. For example, the costs of energy efficiency programs should be allocated based on an energy allocation factor, and the costs of demand response programs should be allocated based on a coincident peak allocation factor.</p> <p>MEDA - Customers who opt-out should also opt-out of the benefits from utility programs.</p> <p>Program Plan/Cost Allocation across Customer Classes</p> <p>MIEC- Cost Allocation across Customer Classes. Several different catagories of costs. Educational/IRP type of costs can be allocated across all customers even those that opt out because they should be done. For customers who are not opting out, fairest way to assign costs by customer class. Demand should be allocated across coincident peak and energy should be allocated across demand and efficiency allocators. Should be allocated to customer who receive the benefit so it makes sense to do this by customer class. Customers who pay the cost get the benefit.</p> <p>Sierra Club- In terms of low-income costs, seems to make sense that this be allocated across all classes, not just residential classes.</p> <p>Rich- Could also make the argument that the public interest is in everyone's interest.</p> <p>Rich- Is there agreement to what MIEC said?</p> <p>AUE- Didn't feel that the real benefits that are generated from the DSM program portfolio. Avoided fuel, power plants that aren't built or deffered. System benefits. Also, need to be careful how the benefits should be allocated. Conceptually, probably couldn't due this without EM&V results or could do with deemed savings. Estimates of what programs have generated and could allocate them the customers who have participated or deallocate to customers who didn't participate. Could do conceptually if you</p>

		<p>wanted to.</p> <p>MIEC- Trying to allocate benefits would be troublesome. If you do that, you would have to look at benefits that industrials have generated on their own.</p> <p>AUE- Paragraph 5- the commission shall fairly apportion the costs and benefits to each customer class This would be a contested part of a rate case at some point.</p> <p>NRDC- Subsection 3- One set of opt out customers there is an obligation to show that they have achieved equal demand-side savings. How can this be shown? If so, you may be entitled to some of the same level of benefits.</p> <p>Wal-Mart- Agrees with NRDC. Many of these industrials have been involved in energy efficiency for many years and other customer classes have received these system benefits.</p>
<p>29. Opting out/Does customer need to prove to utility or is it a right?</p> <p>Utility determines eligibility of customer to opt-out.</p>	<p>Walmart- Proposed rule seems to impose some conditions that are not in statute. In statute, customer has elected not to participate, in the draft rule the customer asks permission to opt-out.</p> <p>MEG- Thinks independent 3rd party (EM&V evaluator?) should determine eligibility. Does a customer have to demonstrate that they have energy efficiency programs at all of their locations in order to opt-out?</p> <p>MIEC- The rules should reflect that the ability to opt-out is a right under SB 376. Just need a place to go if there is a dispute.</p> <p>NRDC- No provision for evaluation of the opt-out customers who meet eligibility.</p>	<p>PSC Staff – Customer must demonstrate an achievement of savings at least equal to those expected from utility-provided programs.</p> <p>MEDA - Customer must demonstrate how they qualify according to the criteria specified in MEEIA. “Demand” should be defined as customer coincident demand.</p> <p>Opt-Out</p> <p>Rich- It seems that there has to be a process for showing savings. Could be in rule. Doesn’t currently say much about this.</p> <p>KCPL- Need to have a plan or existing programs?</p> <p>Rich- Thinks they probably need to have a plan.</p> <p>KCPL- Does there need to be an EM&V process to verify this?</p> <p>NRDC- Probably need to have a plan and EM&V.</p> <p>Rich- Thinks it would be important for the rule to address this.</p> <p>AUE- Statute says program and demonstrate, not plan.</p> <p>Renew Missouri- Verify annually? How often to they have to reaffirm their status of opting out? What about re-opting in? Should say what that process is. Is there a such thing as partially opting out?</p> <p>AUE- Begs for partial opting out not to be the case. Already having to set up subclasses for these. Trying to think about how they need to adjust their potential based on customers that opt-out.</p> <p>Rich- It would probably be useful for staff to know broadly how many meters</p>

		<p>we are talking about.</p> <p>OPC- Supports having something about this in the rule so that it is applied consistently across all companies. Thinks current draft is a good start. Agrees not plan, but a program that is already done/</p> <p>AUE- A reasonable assumption could be made that pretty much everyone 5 MW and above will opt-out it will just be a matter of time.</p> <p>Wal-Mart- 2 provisions of opting out only require customers notify that they are opting out. Doesn't state that something more is required once you have been deemed to qualify. Caution that we not get too carried away that verification not get too burdensome.</p> <p>Sierra Club- To the extent that lost revenue recovery is included, should be clear in the rule that other customer classes shouldn't have to cross subsidize the loss revenues of opt out customers.</p> <p>KCPL- If a customer is participating in a utility rebate, do they still have the opportunity to opt-out. Some customers could game the system.</p> <p>OPC- The statute is clear that they need to meet certain criteria and cannot just be self certifying. The rules should be requiring people to show that they meet the criteria.</p> <p>Rich- Who decides? In most states, the Commission decides; although, he has gotten the impression that it is the utility. Who does the customer appeal to?</p> <p>MIEC- This question is assuming that the customer would appeal. The notification is effective at the time they do it and the burden is on the utility or some other party if they disagree.</p> <p>Wal-mart- Agrees.</p> <p>AUE- "...and can demonstrate." Utility is not in there at all.</p> <p>OPC- It seems that the commission is implementing this statute and they are overseeing what is in it.</p> <p>Rich- One could argue that the commission could delegate this to the utility and let them know if there is a problem.</p> <p>OPC and AUE- Do not like this idea.</p> <p>Wal-Mart- "...customer has notified the electric corporation that the customer elects..."</p> <p>Doesn't sound like there is a big hurdle there to opt-out. For 2.5-5MW customers there is an additional hurdle, doesn't know exactly what "it can demonstrate" means but doesn't think it means that customers need to provide reams of data for the ability to opt-out. Quote the statutory language in rule to get this right.</p> <p>OPC- Looks at paragraph 11.</p>
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		<p>Commission provides oversight... to ensure that all cost effective DSM. To the extent that customers opt-out, this is not part of the utility’s charge. Commission has a role here’ otherwise, it puts the utility in a murky position of not knowing whether they are doing all cost-effective DSM.</p> <p>OPC- There are only going to be a handful of customers that are on the edge. Doesn’t think it would be a daily issues that we would have to go to hearing about what customers are opting out. Thinks there needs to be a revision that qualification is revisited periodically, i.e. every five years.</p> <p>Rich- For a lot of industrials, they are looking at energy efficiency in terms of payback, not TRC. Some programs that the utility would do won’t happen. Think about whether we would require performance by these customers that would match the utility’s offerings. To do this, they would have to be doing programs with a lot longer payback such a 3, 4 years or more.</p> <p>OPC- Probably an important point.</p> <p>AUE- Have seen from some large industrials that if it is a project that would improve the quality of their project, they do those pretty regularly. Energy efficiency is important, but it is not always really why these projects are being done. Compressed air/lighting are often not done because they are a small piece and don’t relate to the quality or competitiveness of the product.</p>
<p>30. Opting out/What to do if there is a dispute between a customer and the utility?</p> <p>Draft does not address this scenario.</p>	<p>MIEC- The rules should reflect that the ability to opt-out is a right under SB 376. Just need a place to go if there is a dispute.</p> <p>AUE- Thinks Commission procedure already says what to do if there is a disagreement (file a case). Doesn’t think needs to be put in rule.</p>	<p>PSC Staff – Disputes can be brought to the Commission through a case filing.</p> <p>MEDA - Disputes can be brought to the Commission through a case filing.</p> <p>See above.</p>

General

Issue and Initial Draft	Initial Comments	May 2010 Workshop Comments
<p>31. How to deal with section 393.1075.5?</p> <p>“Prior to approving a rate design modification associated with demand-side cost recovery, the commission shall conclude a docket studying the effects thereof and promulgate an appropriate rule.”</p>	<p>AUE- What do we think constitutes a rate design mechanism? Is this decoupling? Does what we are doing in workshop now meet this requirement?</p>	<p>MEDA - What constitutes equivalent earnings needs to be explicit in the rules along with analysis requirements to support it. Equivalent earnings means achieving the same percentage return on equity between a plan with DSM and a plan without DSM.</p> <p>OPC- If we were to have an idea of the range of potential rate design mechanism that may be invoked by utilities that would help study the effects of such things. This would also be affected by the view of whether adjustments between rate cases are lawful?</p> <p>Rich- Are adjustments between rate cases a rate design modification?</p>

		<p>OPC- Rate design is what are the elements of the rate used to collect the utility’s revenue requirement.</p> <p>KCPL- That section lists out some specific things the commission could do and then anything else was lumped into the term rate design modification. The commission should take a step back and look at a statewide level and determine if these are the types of things that we should be doing. He would say that this workshop could count as this. The core question is can the utilities do these programs and earn money in a timely manner and are we setting up a structure to do this?</p> <p>OPC- Thinks it means if a company came in and requested for example straight fixed variable the commission would say no we need to promulgate a rule. Doesn’t think that decoupling is a form of rate design.</p> <p>Rich- Some of these issues are going to need adjudication by the Commission. Raised the issue of requesting declaratory judgment from the Commission is warranted.</p> <p>NRDC- Thinks the sentence that refers to rate design mechanisms is the whole suite of items. This docket could have been the appropriate place to study the effects, but it doesn’t appear that it is going to be. Would propose a study before the Commission approved any of the rate design modifications.</p> <p>OPC- Seems the purpose is that you have a docket before approving specific modifications for a single utility. Could be a generic statewide docket where parties present their views and Commission can make a determination.</p> <p>AUE- Wishes the term was defined in statute. Thinks declaratory judgments would be helpful. If this means all modifications to rates this would create some risk for timely recovery and would create a barrier to energy efficiency. A judgment would encourage the current investments yet alone any new ones.</p> <p>OPC- Another example could be if a utility has declining block rates and see that as an impediment to their customer’s investing in energy efficiency.</p> <p>DNR- Important that we have a generic docket as Ryan discussed. Don’t think that current rate structures send the appropriate rate signals to customers.</p>
<p>32. Should the SB 376 rule be a part of 4 CSR 240-22?</p> <p>Not included in draft.</p>		<p>PSC Staff – Yes. Possibly as 4 CSR 240-22.090.</p> <p>MEDA - No, but there could be loose links assuming the plan is the primary focus of the IRP process. If the IRP outcome is focused on auditing the process then there should be no link since</p>

		the plan carries no regulatory weight.

Participant Disclosure: i.e. utilities to track participants/no incentives to go to recipients of certain tax credits.

Rich- may not get the best programs with these record keeping requirements.

OPC- Doesn't know if there is too much to do here. Could create too much overhead, etc.

Rich- What about collecting too much information/and protection of these customers?

OPC- Commission could add some confidentiality provisions or ask for aggregated information.

Rich- Is aggregate information enough, or do you have to know the names of the customers? The statute implies you do because of tax credit information?

AUE- More concerned about people that we partner with for supply chain, ie. Retailers that have received a state tax credit. Is this a problem?

Rich- Are there some implementation issues the rule can help manage?

KCPL- Confidentiality surely is a concern for industrials. Becomes problematic when you start dealing with partners and developers and they are paying someone else. Not giving rebates to people with tax incentives is problematic because they file a year later- is this self reported or are they required to collect tax filings?

AUE- disclosure section uses the word "may" not "shall." The rule should take into consideration which information is needed. Is this disclosure to the commission or public? There are already commission confidentiality rules.

Henry Robertson- Put off to another workshop (paragraph 14) to determine how much is even feasible to do?

DNR- There are some potential conflicts with regard to federal and state confidentiality statutes. Especially with some low-income customers there identities are to be held confidential. Also, matters how commission defines incentives. Doesn't think that example of \$3 rebate for CFL would be considered an incentive.

IRP- Legal Issues? None.

Collaborative Process?

NRDC- Rule should describe purpose and responsibilities of collaborative?

OPC- This varies by utility. Gas collaboratives have received a little more standing because mentioned in some recent commission orders. One collaborative is for input and one is for decision making. OPC is currently nearly overwhelmed by the amount of collaborative efforts and the extent of their ability to participate. There should be a backstop and a means for those with limited ability to participate to still be able to come to the commission to seek some relief related to things going on in the energy efficiency area.

Rich- So, the commission shouldn't expect something from a collaborative on all issues and everyone could have input in this process?

OPC- Yes. The Commission has been having growing expectations over the last couple of years of what collaborative can accomplish and the resources needed to make them work.

NRDC- In same situation, but in 5 states. If they are saving time, they are useful (if less litigation). There should be some clear rules and expectations going. Or, are we going to end up in the same situation they would have otherwise.

Rich- So commission staff should either expect a lot or nothing from this process.

AUE- Stakeholder and approval process need to be matched up together. If there is a 6 month approval process, then need to think about what we need from the stakeholder process too.

Rich- Go from A-Z in rule or is there a way to bypass all the steps.

Rich- What do you think about stakeholder process that was included in April draft? Time elements.

OPC- Unpredictable how well stakeholder processes will work. Also, opinion may vary depending on the stakeholder. Can be utility by utility or can also depend on various stakeholders involved, their knowledge level, resources and ability to get engaged. Skeptical about locking in too much into the rule that there is going to get so much positive outcome from collaborative process that you can skip approval process.

KCPL- Guidance with how open or often people can participate in process. The draft appears to be pretty open. They currently have a refined process that works well.

Rich- Do you like the idea of a formalized process of your current stakeholder process?

KCPL- Would lean towards this depending on how formal and prescriptive, but something with some guidelines.

Cost of Low Income Programs

Rich- Read the statute to say that low-income customers do not have to bear the cost of low-income programs, but that this would be across the residential class. Are there issues like this we need to talk about (Section 6)?

OPC- Hadn't thought of this interpretation until Rich brought it up. DSM plan- hard to reach market sectors/lost opportunities. Does it make sense to have joint implemented program, do different incentives work for different types of customers?

Rich- Hard to reach customer issues are sometimes put in the rule because sometimes it is tempting for the utility to avoid it because it is hard. How much detail does the rule need to get into to guide the investment in terms of types of programs or customer classes?

AUE- Comes up in the program planning process unless there are really long standing priorities that the commission can articulate. Otherwise, this could be left to learning and dialogue of IRP, field experience of program, potential study, etc.

DNR- All customer classes should be addressed in the program plan.

Sierra Club- Don't want detail that is going to work against the goal of all cost effective.

OPC- Need some level of specificity. Not ready to propose language right now. Ie. Hard to reach customers/ Residential customers in rental housing are really hard to reach. Also important for equity in cost allocation.

Rich- some states make it clear that they want to see that some programs are available to all customers.

OPC- Programs should include approach to overcoming market barriers.

AUE- In the plan approval process, there are all kinds of cost categories. At the end of the day, designate something as being program approval ready or tariff ready. Need flexibility to work within an ever changing market without having to have program reapproved.

Program Approval Process

Timeline— Helpful/ too rigid?

AUE- Thinks calendar John has laid out is workable. Tied to IRP- this is right. If there are annual reports and good stakeholder process, should be able to stay on top of things.

OPC- Agrees with AUE. Likes the approval process in sync with IRP process.

KCPL- Agrees with AUE and OPC. Question: Does the calendar provide flexibility? Answer: Utility picks the calendar, doesn't lock in calendar year. Question: Maintaining flexibility for programs identified after DSM program plan? Rich- We can talk about last question later.

DNR- Happy to have link between IRP and program. But, there should be other alternatives to achieve all cost effective savings. Planning and analysis that went into IRP shouldn't be all that is considered when submitting program plan. IRP doesn't have performance targets. Doesn't think IRP can be whole DSM plan, or else we may not get any further.

Rich- Can the Commission set numerical targets? Statute doesn't specify numerical targets. Does silence mean they can do it or are prohibited from doing it?

DNR- Thinks they can. Also, need something in which to measure performance and link the performance incentives.

Staff- Are these targets in order, rulemaking, IRP process?

DNR- Structure would be in rule. Could be set in program plan approval.

NRDC- Agrees strongly with DNR. Believes this rulemaking is the best place to set these targets. If you aren't meeting minimum targets, you aren't getting cost effective savings.

KCPL- Targets brings up the issue of how this is measured. How do you measure free-riders? How do you measure net to gross? This varies across states. Should we be allowed to have deemed net to gross ratios going forward? This involves significant risk.

MIEC- Doesn't think we have enough information to set goals at this time. May be appropriate to do at some point where we have more information about what works. Doesn't think these should be in rules.

Net to Gross

NRDC- Both Illinois and Michigan the gross values were used for the first year, but have general agreement that they want to move to net values. Don't want the net to gross process to be used retrospectively. Michigan rules are in draft form and contemplate moving to net values after the first program year.

Rich- At the beginning of this process, what do you want to be spending your time on?

DNR- Sees this as a methodological question. Thinks the commission could do a lot to resolve this issue by setting evaluation standards. May need to have more conversations about what standards we need to have in a performance document.

OPC- There is already some language in the initial staff's draft that gets at this question. 3 (c) that gets to relationship to resource plan. Not quite right yet, need to make sure which IRP rule we are talking about. There is potential here. Just because it is in IRP plan isn't enough, it should have to go through review process and be approved by the commission. Not taking a position on whether there should be some strict goals. The other choice to goals is if there is a reasonable potential study to look towards.

NRDC- The way building the net to gross database allows for concentrating on program building in initial years. MO specific database would be a good approach.

Dan York- Even if you adopt best practices, there is an evaluation debate of how you get from net to gross outside of the policy debate.

Sierra Club- The statute specifically addressed spillover as something the utility should maximize.

AUE- Net to gross as it applies to program planning is different from how it applies to evaluation. The two are different. The rule should recognize this difference. All things being held equal, deeming is the way to go. There are much bigger fish to fry.

Rich- One choice would be not to say anything about it and just leave it to the program plans and we will approve it or not. Leave the methodology to the plan.

Sierra Club- A numerical target would not raise all of these issues. Setting minimum targets.

DNR- Agree with NRDC. Get started, deal with gross first. Could also agree with AUE, get started and use deemed savings.

OPC- Agree with the benefits of a technical reference manual generally. Would require a lot of work, but hopefully could minimize problems down the road. Makes sense with some programs more than other. In some cases, wouldn't have to do a lot of EM&V beyond that.

Rich- In AR utilities joined together to develop technical reference manual.

MIEC- Probably okay for starters. In most cases, it should eventually be replaced by actual results. Would not always be comfortable with always using deemed savings. Statistical samples could be okay/would have some hard data.

Filing requirements- to what extent should the rule specify what should be in program plan filings.

EDE- It seems that filing requirements have been pretty standard. Currently giving a full analysis to this point. Doesn't know that it needs to be specified because there is already a sort of standard.

OPC- The parts of filing that EDE mentioned are important, but there are some differences when we are talking about the different financial incentives that are permitted by SB 376. The type of things EDE listed should be included in the program plan, but there are other things that should be included. Thinks should look at revenue requirements. Essential to have some additional scrutiny as we step up energy efficiency and incentives in MO. The ability for stakeholders to participate in a stakeholder process to be comfortable with filing is becoming difficult, so we should work to make sure the right information is available regardless of participation in stakeholder process. In order to protect customers, we need to look at things at a pretty detailed level.

AUE- Is this in lieu of a tariff filing? The rules need to be clear on this. Significant costs could incur with consultant. Rules need to be pretty clear on level of specificity and granularity that is required.

NRDC- Likes the program plan content section as it is drafted with the comments made last time.

Reporting Process

AUE- Rule compliance costs. DSM plan approval- plan is more in final form for approval process. So, implementation staff would need to be on board for IRP process. Could see \$1M per filing. Tariff filing- another sizable cost. EM&V- evaluator of evaluator- .5Million. Reporting/Annual Report- 2 FTE, Data Collection Tracking System, \$1Million Development, \$100,000/year maintenance, Potential Studies .5Million every three years, TRM .5Million, EM&V protocol development \$.5 million, statewide marketing \$18mill (maybe not this much), statewide collaborative facilitation fees \$100-\$200,000, and all stakeholders are going to spend time reviewing plans, etc. Compliance costs are very large here. Need to make sure that we are spending customer's money wisely.

Sierra Club- Compare the value of program to ratepayers to the amount spent and make sure it is cost effective.

OPC- Put it in context. Implementers probably do need to be involved in program approval process. One time start up costs that are driven by our starting point in Missouri. Start up costs could help reduce the risk of good outcomes and relates to a concern of cost recovery. Could be money well spent. Willingness of stakeholder to work with other parties in crafting programs...buy-in up front could save money upfront.

KCPL- Hearing that there is a lack of confidence in the state with regard to technology and customer participation and that makes sense to spend money here. But, how much are we willing to spend due to our lack of trust in each other.

AUE- Reporting requirements. A (3)- doesn't understand what that means. Was this a statutory requirement. B. A utility may not request a mechanism until a general rate case... will be a couple years and may not be timely.

Sierra Club- Compliance Cost Issue- If you take the whole program and take the energy savings costs, it has a dramatic decreasing trend as the programs become more aggressive. If you don't have ambitious program your administrative costs are high. If you are striving for all cost effective savings, the costs are not as high.

AUE- Disagrees about the declining cost trend. Trying to do the most efficient job possible. What we can do upfront to gain confidence is great, just need to be aware of the cost.

EDE- Regarding when a mechanism can be requested. If we go with deemed savings approach, perhaps that can change this approach.

Rich- Deemed savings can provide more confidence?

EDE- Yes, because state specific and prepared by a third party.

Reporting Template

OPC- Supports this. Would be helpful with limited resources. Would streamline the regulatory process and help control some of the compliance costs.

Priorities

AUE- SB 376, paragraph 3 talks about the policy of the state. The commission shall provide timely recovery for utilities... Thinks we agree on calendar, independent evaluation.

2 very different ideas on what the commission should do to implement paragraph 3.

The cost recovery mechanism the commission provides policy support for in this rule needs to be different from today: quicker, clearer, don't need to have a specific lost margins tracker, but the feel needs to be that we understand that this is a risky proposition and today it does not feel like that.

KCPL- Referred to same section of SB 376- timely recovery, timely earnings opportunities. Getting this aligned. Can talk through other issues, performance standards and performance incentives, but the timely recovery of cost and earnings opportunities is a key issue for them. Have made a lot of progress, but should focus efforts on what timely recovery is. We should focus our time on this issue.

DNR- provision- aligned with helping customers use energy more efficiently and in a manner that...

The customers have asked the commission in public hearings to help them reduce their energy bills. If we are going to help customers and find all cost effective DSM we really need to do this in rule. Several provisions in the rule will discourage investment. Goal should be all cost effective DSM. Recommend targets the commission should set to get to all cost effective DSM. Cost recovery after EM&V and performance incentives after EM&V will discourage investment.

Rich- A lot of states wait until verified savings are completed before completing the incentive amounts; however, states do cost recovery different than staff draft.

DNR- Structured their paper around the annual reporting that is in the law. Thinks that this is consistent with expensing. Good to have overall and annual targets and performance targets that are assessed annually. Some of this is in recognition that EM&V results are significantly delayed. 3 years is a fairly long time to accumulate a balance. Customer's sense of what they are saving is immediate, so trying to avoid the delay.

DNR- For clarity, the notion of precluding a utility from proposing an incentive until they go through the whole cycle will discourage investment in DSM.

NRDC- Came into process assuming that there was a recognition that something needed to be changed in MO. The all cost effective goal seems to embody that recognition. Taken a little aback by some of the conversation that some think we are already getting all cost effective energy efficiency. Thinks we are a long way from all cost effective. Ameren's potential study shows that there is a lot more to go. Hoping that we can leave today recognizing that MO is not recognizing all cost effective energy efficiency.

Sierra Club- In terms of priorities, the ultimate goal is all cost effective energy efficiency. We should be talking about the mechanisms to achieve that. The benefits are beyond anything we can see in a TRC test. Climate change, jobs, fuel sources, dependence of fossil fuel, etc. Many times the attitude is no more EE than is cost justified; however, you are saving a lot more money if you go over. The senate was right when they said the goal was all cost effective energy efficiency. Should be willing to push the envelope and see what we get. If we get to the point where incremental energy efficiency is more expensive than generation, that would be a great place to be.

Henry Robertson- This is one necessarily solution among many to the issue of global warming. The IRP process has not resulted in a lot of DSM. The externalities should be captured in the TRC test. Have seen some complex methodologies from other states to take into account environmental issues. Some states use a specific externality factor to be plugged in.

OPC- Didn't hear anyone state that we think we are already doing all cost effective DSM. Thought this was one thing we agreed upon. We have come along way from development of IRP and provision for special accounting provisions for DSM. No one has asked for that. Then, some wanted certainty of legality of cost recovery even in addition to regulatory plan. So now, there is a certain amount of clarification provided through this new law. Program approval is a new step for the commission and provides a new level of certainty than just the filing of a tariff. Requires some action from the Commission and provides some additional certainty of cost recovery. Don't need to have a stipulation and agreement. OPC would like to see a rule that creates transparency, that creates an oversight process with an efficient way for regulators and parties to get involved and a rule that creates ground rules for the process is the way to do this.

OPC- In terms of priorities, should put sights specifically on mechanism that are listed in paragraph 5, rather than trying to determine if other mechanisms are allowed. Thinks we should focus on those specific mechanisms in the next workshop/in this docket to see how we can get them into the rule.

Wal-Mart- The bottom line is the impact on their bottom line. These things have merit, but they also have real financial impacts. Ultimately, consumers pay for it. Also, concern that we not stray from the words of the statute. Statutes are not suggestions/implement what the words say. Otherwise, don't have the authority to implement rules that are beyond their statutory authority. Has to be some boundaries. There are some issues we are not going to agree to and the commission is going to have to decide which version it wishes to adopt.

EDE- Priority is timely cost recovery, (Section 3.) Rate making design issues at docket level, it was her understanding that this docket would be where this would be addressed.

KCPL- Typically, sales growth in the utility industry nationally is 2% every year. If we are asking them to reduce their sales growth by 1% every year, there has to be an incentive for them to do that.

MIEC- Cost Recovery Issue- Reiterated previous comments- Capitalize and amortize with right of carrying charge before you amortize is in many respects superior to supply side. Staff has taken this into account in proposed rule. Have to balance cash to when customers get benefits of what that cash produces. Today's customers may not be tomorrow's customers. Shared benefits approach makes the most sense. But, first we have to understand what we have and how to measure it and verify it. This is timely and provides an incentive to the utilities. Arbitrary goals for reducing sales doesn't make sense. We aren't there yet. Also didn't hear the comment that we are already achieving all cost effective savings. A lot of avoided cost studies we have now are based on 2008 studies that project avoided costs very high in the future. Let's do this in a methodical and reasonable way where we have more confidence in what we are doing.

There may be a limit on the amount accrued in a regulatory asset in the future, but doesn't think we are there yet. They are not going to be denied recovery barring some type of imprudence, shouldn't be a problem.

Noranda- Qualifies for the opt-out, but that doesn't mean they don't care what happens here. Low cost future for MO matters to everyone. We seem to want to go from a go slow state to a go slow state. Should be some recognition of how we get there/transition. Timely recovery and performance incentives are hard to disagree with, but has to be tied to a result. Not just doing to demand side measures but promoting the least cost. We are looking at the bottom line. In MO we may use more electricity, but our average bill is lower. We are trying to creatively address the imperfections. The key is the alignment of interest, providing incentives that are tied to cost effective performance.