Demand-Side Programs Investment Rule

1. Policy Objectives

PURPOSE: This rule states the public policy goals the Commission is following in implementing the Missouri Energy Efficiency Investment Act of 2009 (section 393.1075 RSMo Supp 2009) by this chapter.

A. In implementing the Missouri Energy Efficiency Investment Act of 2009 (section 393.1075 RSMo Supp 2009) in this chapter the commission is following these public policy goals:

i. Encourage more efficient energy use and cost-effective demand-side programs;

ii. Have substantial justice between utilities and their customers;

iii. Value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs and, in doing so:

a. Provide timely cost recovery for utilities;
b. Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and
c. Provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings.

AUTHORITY: 393.1075, RSMo 2009

2. Definitions

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

The following words and terms, when used in this chapter, shall have the meanings shown below:

"After-tax discount rate" means the utility's weighted cost of capital reduced by the utility's composite federal and state income tax rate multiplied by the utility's weighted cost of debt.

"Avoided cost" means the cost savings obtained by substituting demand-side resources for existing and new supply resources as calculated in 4 CSR 240-22.050.

“Baseline forecast” means the metric against which savings are measured. This estimates what would happen in the absence of any demand-side programs, and includes naturally occurring energy efficiency and codes and standards are in place.

“Benefit/cost ratio” means the ratio of the present value of benefits to the present value of costs.

“Cost effectiveness tests” means one of the four acceptable economic tests used to compare the present value of applicable benefits to the present value of applicable costs of a demand-side option or program. The tests are the total resource cost test, participant test, the ratepayer impact test, the societal test and utility test. An option or program passes a benefit/cost test if the benefit/cost ratio is equal to or greater than one.

“Commission” means the Public Service Commission of Missouri.

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

“Customer incentive” means an amount or amounts provided to or on behalf of customers for the purpose of having customers participate in demand-side programs.

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

“Demand-side investment mechanism” may include when approved by the commission, without limitation, any combination of the following: decoupling, recovery of fixed costs (lost margin revenue), capitalization of investments in and expenditures for demand-side programs, rate design modifications, accelerated depreciation on demand-side investments, and allowing the utility to retain a portion of the net benefits of a demand-side program for its shareholders.

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

“Economic potential” means a theoretical construct that assumes all cost effective measures are adopted by customers, regardless of customer preferences.

“Electric Utility” or “Utility” means an “electrical corporation” as defined in section 386.020, RSMo.

“Energy efficiency” means measures that reduce the amount of electricity required to achieve a given end use.

"Evaluation, measurement and verification" (EM&V) means the performance of studies and activities intended to determine the actual savings and other effects from demand-side programs and measures.

"Evaluation, measurement and verification independent evaluator" means an independent third party approved by the commission that performs EM&V tasks as assigned by the Commission

"Free riders" means those program participants who would have done what a demand-side program intends to promote even without the program.

"Gross savings" means the change in energy and demand requirements for program participants.

"Interruptible or curtailable rate" means a rate under which a customer receives a reduced charge in exchange for agreeing to allow the electric utility to withdrawal the supply of electricity under certain specified conditions.

"Maximum achievable potential" takes into account expected program participation, based on customer preferences resulting from ideal implementation conditions. Maximum achievable potential establishes a maximum target for demand-side savings that a utility can hope to achieve through its demand-side program and involves incentives that represent a substantial portion of the incremental cost combined with high administrative and marketing costs. It is commonly-accepted in the industry that maximum achievable potential is considered the hypothetical upper-boundary of achievable savings potential simply because it presumes conditions that are ideal and not typically observed in real-world experience.

"Net societal benefits" means the present value of benefits less the present value of costs as defined in the societal test.

"Participant test" means an economic test used to compare the present value of benefits to the present value of costs over the useful life of demand-side option or program from the participant's perspective. Present values are calculated using a discount rate appropriate to the class of customers to which the demand-side option or program is targeted. Benefits are the sum of the present values of the customers' bill reductions, tax credits, and customer incentives for each year of the useful life of a demand-side option or program. Costs are the sum of present values of the customer participation costs (including initial capital costs, ongoing operations and maintenance costs, removal costs less a salvage value of existing equipment, and the value of the customer's time in arranging installation, if significant) and any resulting bill increases for each year of the useful life of the option or program. The calculation of bill increases and decreases must account for any time-differentiated rates to the customer or class of customers being analyzed.

"Pilot program" means and program or project which generally is designed as a test or trial to demonstrate the effectiveness of a full program. For purposes of this rule, a pilot program is distinct from other program designs in that it shall include explicit questions that the pilot will address; explicit evaluation, measurement and verification methods designed to address pilot questions, estimates of program costs and savings, a provisional cost effectiveness evaluation, and shall be of limited duration until reassessment after a predetermined periods.

"Preferred resource plan" means the same definition found in 4 CSR 240-22.

"Program year" means…

"Ratepayer impact measure test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of a demand-side option or program from a rate level or electric utility's bill perspective. Present values are calculated using the utility's discount rate. Benefits are the sum of the present values of utility avoided capacity and energy costs (excluding the externality factor) and any revenue gains due to the demand-side options for each year of the useful life of the option or program. Costs are the sum of the present values of utility increased supply costs, revenue losses due to the demand-side options, utility program costs, and customer incentives for each year of the useful life of the option or program. The calculation of utility avoided capacity and energy, increased utility supply costs, and revenue gains and losses must use the utility's costing periods.

"Realistic achievable potential" represents what is considered to be realistic estimates of demand-side potential based on realistic parameters associated with demand-side program implementation (i.e. limited budgets, customer acceptance barriers, etc.)

"Seasonal peak demand" for an electric utility means the maximum hourly demand that occurred during that season.

"Societal test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of a demand-side option or program from a societal perspective. Present values are calculated using a 12-month average of the 10-year and 30-year Treasury Bond rate as the discount rate. The average shall be calculated using the most recent 12 months at the time the electric utility calculates its benefit/cost tests for its demand-side program plan. Benefits are the sum of the present values of the utility avoided supply and energy costs including the effects of externalities. Costs are the sum of the present values of utility program costs (excluding customer incentives), participant costs, and any increased utility supply costs for each year of the useful life of the option or program. The calculation of utility avoided capacity and energy and increased utility supply costs must use the utility costing periods.

"Spillover" means measures installed by customers independently of a demand-side program that occur due to the general influence or awareness building effects of the program.

“Technical potential” means a theoretical construct that assumes all feasible measures are adopted by customers, regardless of cost or customer preferences.

“Technical Reference Manual” or “TRM” means a deemed savings document that provides specific efficiency thresholds and formulas to use in calculating energy-efficiency savings.

“Total resource cost test” or “TRC” is a test of the cost-effectiveness of demand-side programs that compares the sum of avoided utility costs plus avoided probable environmental costs to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus utility costs to administer, deliver and evaluate each demand-side program to quantify the net savings obtained by substituting the demand-side program for supply resources. The TRC test shall be applied at the plan level rather than the component, program or measure level and shall be the deciding test to determine if a plan will be deemed cost-effective.

“Useful life” means the number of years a demand-side option will produce benefits as determined by the utility. For analysis purposes, the useful life of a demand-side option shall not exceed 20 years.

“Used for service” means a commission approved demand-side program which has been implemented and is delivering program measures to customers.

“Utility cost test” means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency option or program from the utility revenue requirement perspective. Present values are calculated using the utility’s discount rate. Benefits
are the sum of the present values of each year’s utility avoided capacity and energy costs (excluding the externality factor) over the useful life of the option or program. Costs are the sum of the present values of the utility’s program costs, customer incentives, and any increased utility supply costs for each year of the useful life of the option or program.

AUTHORITY: 393.1075, RSMo 2009

3. Filing for Approval of Demand-Side Program Plans

PURPOSE: All electric utilities shall file an application for approval by the commission of its demand-side program plans which satisfy the requirements of this rule.

A. In addition to the requirements of 4 CSR 240-2.060(1), applications for approval of demand-side programs shall include the utility’s demand-side program plans, supporting testimony, supporting work papers and, if applicable, tariff sheets that comply with the requirements of this rule.

B. Each electric utility shall file with the commission its application for approval of its demand-side program plans as follows:

i. Initial applications for approval of demand-side program plans shall be filed with the commission no later than six months after this rule is effective.

a. Initial demand-side program plans shall include existing demand-side programs with approved tariffs that have been implemented and may include demand-side programs which have not been implemented but are included in the electric utility's preferred resource plan.

b. Initial plans shall include the same information for each program as specified in section E.

c. Initial demand-side program plans will include multi-year programs and thereafter, will be updated on an annual basis in the next demand-side program plan filing.

ii. Thereafter, applications for approval of demand-side program plans shall be filed with the commission each year by not later than December 31.

C. Relationship to resource plan. The process and results of the electric utility resource planning process of 4 CSR-240-22 shall serve as the primary analysis for determining what demand-side programs may be included in the electric utility's demand-side program plan. Only those demand-side programs included in a utility's preferred resource plan as a result of a triennial compliance filing or an annual update filing may be included in that utility's demand-side program plan. Demand-side programs that are included in a utility's preferred resource plan shall be deemed to meet a statutory goal of achieving all cost-effective demand-side savings.

D. As part of its application for approval of a demand-side program plan with the commission, an electric utility may include applicable tariff sheets for demand-side programs which are not yet in the utility's approved tariff, but which, as a promotional practice, are included in the utility's demand-side program plan in compliance with the requirements of 4 CSR 240-14 Utility Promotional Practices and 4 CSR 240-3.150 Filing Requirements for Electric Utility Promotional Practices.

E. Demand-side program plan content. At a minimum, each electric utility's demand-side program plan shall include, for each program year, the following:

i. Current market/potential assessment study performed using primary data for the utility's service territory to determine the technical potential, economic potential, maximum achievable potential and realistic achievable potential relative to a baseline forecast.

ii. A description of each program selected, including:

a. The name of the program;

b. The customer class to which the program is targeted;

c. The strategy and objective of the program, including what the program will do and what barriers the program may help customers overcome;
d. The demand-side measures to be promoted by the program;
e. The technique(s) proposed to promote the program;

(i.)Programs may include incentives to encourage customers to make demand-side investments, if the incentives are cost justified.
(ii). Incentives may include leasing programs, product giveaways and direct financial inducements. Financial inducements may include, but are not limited to, rebates, discounted products and services, and low interest rate financing.
(iii.) All customer incentives shall be considered in the benefit/cost tests of programs. Costs of customer incentives shall be considered direct program costs.
(iv.) Incentives should not be any higher than necessary to overcome the customers' barriers to invest in the measure, and should be reduced or eliminated as the measure becomes more of a standard practice.

f. The scope of implementation, e.g., systemwide, partial system, or pilot programs:

(i.) Pilot demand-side programs may be included, if justified by the utility and approved by the commission.
(ii.) A pilot demand-side program design is distinct from other program designs in that it shall include explicit questions that the pilot will address; explicit evaluation, measurement and verification methods designed to address pilot questions, estimates of program costs and savings, a provisional cost effectiveness evaluation, and shall be of limited duration until reassessment after a predetermined periods.

g. The estimated annual energy and demand savings for each year the demand-side program is anticipated to produce benefits. After it is established, electric utilities shall use an approved statewide Technical Reference Manual to determine the deemed energy and demand savings for each year.
h. The implementation dates for initiating the program and a schedule of dates for reporting, evaluating, and concluding the program.
i. The budget for each program for each year of implementation or for each of the next five years of implementation, whichever is less, itemized by proposed costs related to each program. The proposed costs shall be identified as either direct charges or indirect charges. The total program budget shall be categorized into:

(i.) Planning and design costs;
(ii.) Administrative costs;
(iii) Advertising and promotional costs;
(iv.) Customer incentive costs;
(v.) Equipment costs;
(vi.) Installation costs;

(vii.) Monitoring and evaluation costs;
(viii.) Miscellaneous costs; and
(ix.) Cost allocation of company staff versus contractor staff.

j. A statement that a program is targeted to low-income customers or general education campaigns, if it is so targeted, in which case the program is not required to meet a cost-effectiveness test; however, to determine the program or campaign is in the public interest, the commission must determine the program or campaign meets the societal test. If the program is targeted to low-income customers, the electric utility must also state how the electric utility will assess the effect of the program on issues affecting low-income customers, including, but not limited, to arrearages and/or disconnections.
k. A detailed description of the utility's avoided cost calculations and all underlying assumptions used in those calculations.
(i.) For assumptions involving uncertainty, the electric utility shall identify a range of values with, at a minimum, a high, base, and low case
(ii.) To the extent that any identified measure, program or the portfolio fails to meet the total resource cost test, the electric utility shall examine whether the failure persists if it considers uncertainty in the calculation of avoided cost.
l. The electric utility's estimations of its annual earnings each year of the demand-side programs, with and without the implementation of demand-side programs.
m. The electric utility's estimations of the rate impacts and average bill impacts on its customers resulting from the electric utility's implementation of demand-side programs;
n. A description of each strategy, if any, used to minimize free riders.
o. A description of each strategy if any used to maximize spillover;
p. The proposed performance goals for peak demand and energy savings from utility implementation of cost-effective demand-side programs. The utility shall provide annual and total goals, by demand-side program, for three years subsequent to the year of the filing;
q. Complete documentation of the following for each program:
(i.) Technical potential;
(ii.) Economic potential;
(iii.) Maximum achievable potential;
(iv.) Realistic achievable;
(v.) Total resource cost test;
(vi.) Utility cost test;
(vii.) Ratepayer impact measure test;
(viii.) Participant test; and
(ix.) Societal test.

r. A description of any efforts to coordinate programs with other utilities or between gas and electric utilities where a measure or program results in both gas and electric savings;

AUTHORITY: 393.1075, RSMo 2009

4. Review of Demand-Side Program Plans

PURPOSE: Stakeholder advisory group participation in development of and Commission review and approval of a utility's demand-side program plan shall be governed by the following procedures:

A. Stakeholder advisory group. Each electric utility shall offer those interested the opportunity to participate as a member of its stakeholder advisory group concerning development of its demand-side program plan. At a minimum, the stakeholder advisory group shall meet quarterly. The electric utility shall provide all members of the stakeholder advisory group the opportunity to offer suggestions and comment on a draft of each demand-side program plan the utility proposes to file, and to review and comment on an existing approved plan.

B. Contested case proceeding. The filing of an application for approval of a demand-side program plan shall initiate a contested case proceeding. All testimony, exhibits, and workpapers shall be filed with each application for approval of a demand-side program plan before the commission. Likewise, an application to modify an approved demand-side program plan shall initiate a contested case proceeding before the commission. All supporting testimony, exhibits, and workpapers filed by any party must be cross-referenced to the demand-side program plan requirements. Any portion of any plan, application, testimony, exhibit, or workpaper which is based upon or derived from a computer program shall when filed include the name and description of the computer program, and all reasonably necessary data inputs and outputs associated with each such portion in hard copy and electronic format.

C. Procedural schedule. To facilitate completion of the contested case proceeding within six months from the date the application to approve or modify a demand-side program is of filed by an electric utility, a procedural schedule based on the following guidelines shall be established:

i. Prepared direct testimony, exhibits, and work papers in support of the filing—date of initial filing.

ii. Testimony, exhibits, and work papers of all other parties—filed not later than seven weeks from the date of the initial filing.

iii. Electric utility response to proposals—filed not later than 11 weeks from the date of the initial filing.

iv. Hearing (cross-examination of all testimony)—initiated not later than 14 weeks after the initial filing.

v. Briefs of all parties—filed not later than 17 weeks after the initial filing.

vi. Reply briefs of all parties—filed not later than 18 weeks after the initial filing.

vii. Additional time may be granted a party upon a showing of good cause for the delay including, but not limited to:

a. Delay of completion of a previous procedural step.

b. Delays in responding to discovery requests.

c. Conflicts

viii. Settlements.

D. Commission Approval.

i. The commission shall approve, modify or reject the utility's demand-side program plan and any applicable demand-side program tariff sheets. If the commission rejects the demand-side program plan, it shall issue an order in which it states the reasons for rejecting the plan and set a schedule by which the electric utility will file a new plan addressing the reasons for rejection. If the commission modifies a plan, it shall issue an order in which it outlines the modifications.

ii. A program filed under these rules shall not be implemented until the commission issues an order expressly approving the program.

iii. The commission may approve utility specific settlements and tariff provisions to ensure that electric utilities can achieve the state goal of capturing all cost effective demand –side savings.

E. Modified plan—refiling. If the commission rejects or modifies a utility's demand-side program plan, the commission may require the electric utility to file a modified plan and may specify the minimum acceptable contents of the modified plan.

F. Variances. Upon request and for good cause shown, the commission may grant a variance from any demand-side program plan requirement imposed by this section. If the variance request is granted, the utility shall file a copy of the commission order with the utility's demand-side program plan.

G. Prudence reviews. The commission may conduct a contested case to evaluate the reasonableness and prudence of the utility's implementation of its demand-side program plan. The burden shall be on the electric utility to prove it has taken all reasonable actions to implement its approved demand-side program plan.

AUTHORITY: 393.1075, RSMo 2009

5. Modification of Demand-Side Programs

A. After an electric utility's demand-side program plan has been approved by the commission, the demand-side program plan may subsequently be modified during implementation, if the modification is approved by the commission. The electric utility may file an application for modification. The commission, on its own motion, may consider modification of the demand-side program plan and budget.

i. The electric utility may constrain or accelerate projected utility implementation of a program based on the utility's assessment of market potential. The utility may consider market factors including, but not limited to, market barriers to implementation of the program, the effects of rate impacts, lost opportunities which decrease future implementation of measures or programs, the non-energy benefits and detriments of programs, the strategic value of demand-side programs to the electric utilities, and other market factors it deems relevant.

B. The electric utility shall file an application to modify its demand-side program plan if any one of the following conditions occurs during the implementation of its plan:

i. The annual budget changes by a factor of at least plus or minus ten percent;

ii. The percent of annual budget per customer class or grouping has changed by a factor of at least plus or minus ten percent;

iii. The implementation schedule of a program has changed by three months or more; or

iv. An approved program is eliminated or the utility desires to add a new program to the plan.

C. All applications to modify shall be filed in the same case in which the commission approved the demand-side program plan. All parties to the case in which the demand-side program plan was approved shall be parties to the modification request, shall be served copies of the application to modify and shall have 14 days to file their objection to the modification; failure to file a timely objection shall be deemed agreement to the modification.

D. In addition to the requirements of 4 CSR 240-2.060(1), each application to modify an approved demand-side program plan shall include:

i. A statement of the proposed modification and the party's interest in the modification;

ii. An analysis supporting the requested modification;

iii. An estimated implementation schedule for the modification; and

iv. A statement of the effect of the modification on projected costs and benefits.

AUTHORITY: 393.1075, RSMo 2009

6. Customer Participation & Opt-Out Provisions

A. Any customer meeting one or more of the following criteria shall be eligible to opt-out of participation in utility offered demand-side programs:

i. The customer has one or more accounts within the service territory of the electric utility that has a demand of five thousand kilowatts or more;

ii. The customer operates an interstate pipeline pumping station, regardless of size; or

iii. The customer has accounts within the service territory of the electric utility that have, in aggregate, a coincident demand of two thousand five hundred kilowatts or more, and the customer has a comprehensive demand-side or energy efficiency program and can demonstrate an achievement of savings at least equal to those expected from utility-provided programs.

B. The utility shall make available standard notification forms requesting all relevant information to determine customer eligibility to opt-out of participation in demand-side programs.

i The utility shall notify the customer and commission of its acceptance, or rejection of a customer's notification to opt-out of participation in demand-side programs within 10 days of when the customer notifies the utility of its election to opt out, unless the customer, withdraws its election before then.

ii. Customers of a utility who opt-out of participation in demand-side programs offered by the utility shall be charged none of the costs for demand-side programs of the utility in accordance with the Missouri Energy Efficiency Investment Act (section 393.1075, RSMo 2009 Supp.) or this rule, nor shall any of the costs be assigned to any account of the customer or its affiliates and subsidiaries.

iii. Customers who opt-out of participating in the demand-side programs of a utility shall still be allowed to participate in interruptible or curtailable rate schedules or tariff provisions offered by the electric utility.

iv. Any customer who opts out shall continue to be allocated costs until all costs have been recovered from any programs the customer was eligible to participate prior to opting out.

v. Customers that have opted out of participation in demand-side programs shall not subsequently be eligible to participate in demand-side programs except… *under guidelines established by the commission in rulemaking.*

AUTHORITY: 393.1075, RSMo 2009

7. Annual Demand-Side Program Reporting

PURPOSE: This rule establishes standards for annual reporting on an approved demand-side program plan by electric utilities.

A. Each electric utility shall file an annual report with the commission on December 31 of each year. At the minimum, the annual demand-side program report shall include:

i. If applicable, actual revenues collected under each demand-side investment mechanism;

ii. Actual amounts expended under each demand-side program, including incentive payments;

iii. A demonstration that the allocation of costs among customer classes did not unreasonably burden any particular customer class;

iv. The avoided costs and the techniques used to estimate those costs;

v. The net economic benefits of the demand-side programs; and

vi. For each program where one or more customers have opted out of the program pursuant to Section 393.1075.7, RSMo Supp 2009, a listing of the customer(s) who have opted out of participating in the program.

B. The annual report shall be the format in which the utility informs the commission when each demand-side program is used for service and is eligible for inclusion in the demand-side investment mechanism as described in sections 9-12 of this rule. The annual demand-side program report and independent evaluation, measurement and verification shall be a basis upon which the commission relies in a general rate case to determine when a utility may be authorized a demand-side investment mechanism. A utility may not request a demand-side investment mechanism in a general rate case until at least one annual demand-side program report and independent, evaluation, measurement and verification has been completed.

C. Variances. Upon request and for good cause shown, the commission may grant a variance from any annual demand-side program reporting requirement imposed by this section. If the variance request is granted, the utility shall file a copy of the commission order with the utility's annual demand-side program report.

AUTHORITY: 393.1075, RSMo 2009

8. Evaluation, Measurement and Verification

A. The commission shall designate an independent contractor to perform evaluation, measurement and verification of the implementation of all approved programs included in each electric utility's demand-side program plan.

B. The selected evaluation, measurement and verification independent evaluator shall report evaluation results to the commission and to stakeholders on behalf of the electric utility;

C. The selected evaluation, measurement and verification independent evaluator shall be funded by…

D. The evaluation budget shall not exceed 5% of the total budgeted for all demand-side programs;

E. The commission shall establish:

- i. Evaluation goals;
  - a. Processes evaluation;
  - b. Program evaluation:
    - (i.) Lifetime gross and net peak demand and energy savings achieved under each program, and the techniques used to estimate savings impacts;
    - (ii.) A demonstration that the plan achieved all cost-effective energy savings potential
      - (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 in its next demand-side program plan filing. The fact that a program proves not to be cost-effective shall not be grounds for disallowing cost recovery.
- ii. An evaluation schedule;
- iii. An evaluation methodology, including approaches for calculating gross and net energy savings.

F. Each utility shall interface and coordinate with the commission approved EM&V independent evaluator and provide necessary data for all approved programs included in each electric utility's demand-side program plan.

G. The EM&V independent evaluator shall report its findings related to the previous program year to the commission on behalf of the utility no later than September 1 each year.

H. Variances. Upon request and for good cause shown, the commission may grant a variance from any evaluation, measurement and verification requirement imposed by this section. If the variance request is granted, a copy of the commission order shall be files with the evaluation, measurement and verification.

AUTHORITY: 393.1075, RSMo 2009

9. Demand-Side Investment Mechanism - General Provisions

A. In order for a program to qualify for inclusion in a demand-side investment mechanism, the program:

i. Shall be approved by the commission prior to implementation;

a. Program-related costs incurred prior to the electric utility's initial demand-side program plan shall not be included in the demand-side investment mechanism.

ii. Shall be implemented in accordance with the approved demand-side program plan and tariff sheets;

iii. Shall have been shown in an annual demand-side program report that it has been used for service and is delivering measures to customers;

iv. Shall have efficiency and/or demand savings capable of measurement and verification and shall result in energy or demand savings and are beneficial to all customers in the customer class in which the program is proposed;

v. Shall be monitored and evaluated for cost-effectiveness;

a. If a program is determined to be not cost-effective the electric utility shall identify the causes why. That a program is not cost-effective shall not be sufficient grounds alone for disallowing cost recovery. However, the electric utility shall propose modification or termination of a program that fails to meet expected results.

vi. Shall have undergone an evaluation by a commission approved EM&V independent evaluator.

B. After meeting the requirements established in paragraph A of this section, an electric utility may request in a general rate case that the commission approve a demand-side investment mechanism.

i. As part of the general rate case as discussed in Section B, the commission may approve a demand-side investment mechanism for demand-side programs that value demand-side investments at least equal to traditional investments in supply and delivery infrastructure.

ii. In setting rates, the commission shall apportion the costs and benefits of demand-side programs to each customer class.

a. (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?)

iii. In a general rate case proceeding, the commission may, when in the public interest, reduce or exempt the allocation of demand-side program costs to low income classes, as a subclass of residential service.

iv. All charges attributable to demand-side programs approved by the commission shall clearly be shown as a separate line item on bills to the utility's customers.

C. Duration of demand-side investment mechanism and requirement for general rate case. Once a demand-side investment mechanism is approved by the commission, it shall remain in effect for a term of not more than four (4) years unless the commission earlier authorizes the modification, extension, or discontinuance of the demand-side investment mechanism in a general rate proceeding, although an electric utility may submit proposed rate schedules to implement periodic adjustments to its demand-side investment mechanism between general rate proceedings.

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

ii. The four (4)-year period shall not include any periods in which the electric utility is prohibited from collecting any charges under the demand-side investment mechanism, or any period for which charges collected under the mechanism must be fully refunded. In the event a court determines that the demand-side investment mechanism is unlawful and all moneys collected are fully refunded as a result of such a decision, the electric utility shall be relieved of any obligation to file a rate case.

AUTHORITY: 393.1075, RSMo 2009

10. Demand-Side Investment Mechanism - Cost Recovery

A. Utilities may recover their actual costs expended to implement and evaluate demand-side programs that the commission approves and the utility implements.

i. Costs incurred after a demand-side program plan is approved and before the program costs are included in a commission-approved demand-side investment mechanism shall be charged to a regulatory asset account and incur a carrying charge before they are recovered. The carrying charge shall be the allowance for funds used during construction rate the commission last approved for the utility;

ii. Costs will remain in the regulatory asset account until the program costs are included in a commission-approved demand-side investment mechanism. At that time the costs in the regulatory asset account will be amortized over a period of three years and recovered in rates over three years.

B. Utilities shall maintain accounting plans and procedures to account for all demand-side program costs in accordance with generally accepted accounting principles.

C. In the general rate case, as discussed in Section 9(b), each utility shall file the costs it proposes to recover in the demand-side investment mechanism. Costs proposed to be included in the cost recovery portion of the demand-side investment mechanism will be the total of:

i. The costs the electric utility expects to incur in the subsequent 12-month period in implementation of its demand-side program;

ii. The positive or negative difference, over the past 12-month period under the automatic adjustment mechanism, between the actual revenues collected and the actual cost incurred, including carrying charges accrued on the balance; and

iii. Excluding any previously recovered costs that, in a prudence review as described in section 4 of this rule the commission has determined were imprudently incurred.

AUTHORITY: 393.1075, RSMo 2009

11. Demand-Side Investment Mechanism - Lost Revenues

A. In the general rate case, as discussed in Section 9(b), each utility may file an application to include, as part of its demand-side investment mechanism, a means to eliminate its incentive to increase sales between rate cases and ensure that the success of its demand-side program does not cause it financial harm;

i. Recovering lost revenues is an allowable track if decoupling is not allowed by the commission.

B. Lost revenues should be determined through the independent EM&V process as established by the commission;

C. The proposed demand-side investment mechanism may not diminish in any respect current customer incentives to undertake effort or investment to increase the efficiency with which they use energy; and

D. Minimum requirements for application…

AUTHORITY: 393.1075, RSMo 2009

12. Demand-Side Investment Mechanism - Performance Incentives

A. Utilities have an opportunity to produce earnings

i. Based on the value created by their efforts under an approved demand-side program, as indicated by achieving the energy and demand savings in an approved plan per the actual costs and benefits following the results of evaluation, measurement and verification.

ii. For strong performance compared to applicable goals

a. With no earnings available for achieved savings less than 75% of the greater of the default targets above or the plans goals; and
b. With greater reward for increasing benefits beyond planning estimates.

iii. At a level comparable to that available for investment in supply-side resources, as adjusted for the differing risks of the two types of resources.

B. Penalty for poor performance?

C. In the general rate case, as discussed in Section 9(b) each utility may file an application to include, as part of its proposed demand-side investment mechanism a process to improve its earnings opportunity for achievements under its demand-side program plan consistent with the commission's policy.

AUTHORITY: 393.1075, RSMo 2009

13. Tax Credits and Disclosures

A. Any customer of an electrical utility who has received a state tax credit under sections 135.350 to 135.362, RSMo, or under sections 253.545 to 253.561, RSMo, is not eligible for participation in any demand-side program offered by a utility if such the program offers the customer a monetary incentive.

B. As a condition of participation in any demand-side program offered by an electric utility under this section when such program offers a monetary incentive to the customer, the customer shall attest to non-receipt of any tax credit listed in subsection (A) of this section and acknowledge that the penalty for a customer who provides false documentation is a class A misdemeanor.

C. The electric utility shall maintain a database of participants enrolled in all demand-side programs offered by the utility when such program offers a monetary incentive to the customer including the following information: the name of the participant or the names of the principles if for a company, the property address and the amount of the monetary incentive received. Upon request, by the commission, the utility shall disclose participant information to the commission.

AUTHORITY: 393.1075, RSMo 2009

14. Records

A. All demand-side programs are subject to inspection and audit by the commission and commission staff.

B. All records of demand-side programs shall be maintained in sufficient detail to permit a thorough audit and evaluation of all program costs and program performance.

C. Nothing in this rule limits the existing authority of the Public Service Commission of Missouri.

AUTHORITY: 393.1075, RSMo 2009