ATTACHMENT C

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

Proposed Amendment

4 CSR 240-20.094 Demand-Side Programs
PURPOSE: This amendment modifies the terms and conditions related to demand-side programs, potential studies and customer opt-outs.

(1) The definitions of terms used in this section can be found in 4 CSR 240-20.092 Definitions for Demand-Side Programs and Demand-Side Program Investment Mechanisms, which is incorporated by reference.

[As used in this rule, the following terms mean:
(A) Annual demand savings target means the annual demand savings level approved by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A). Annual demand-side savings targets are the baseline for determining the utility's demand-side programs' annual demand savings performance levels in the methodology for the utility incentive component of a demand-side programs investment mechanism (DSIM);
(B) Annual energy savings target means the annual energy savings level approved by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A). Annual energy savings targets are the baseline for determining the utility's demand-side programs' annual energy savings performance levels in the methodology for the utility incentive component of a DSIM;
(C) Annual net shared benefits means the utility's avoided costs measured and documented through evaluation, measurement, and verification (EM&V) reports for approved demand-side programs less the sum of the programs' costs including design, administration, delivery, end-use measures, incentives, EM&V, utility market potential studies, and technical resource manual on an annual basis;
(D) Avoided cost or avoided utility cost means the cost savings obtained by substituting demand-side programs for existing and new supply-side resources. Avoided costs include avoided utility costs resulting from demand-side programs' energy savings and demand savings associated with generation, transmission, and distribution facilities including avoided probable environmental compliance costs. The utility shall use the same methodology used in its most recently-adopted preferred resource plan to calculate its avoided costs;
(E) Baseline demand forecast means a reference forecast of annual summer and winter peak demand at the class level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;
(F) Baseline energy forecast means a reference forecast of annual energy at the class level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;
(G) Customer class means major customer rate groupings such as residential, small general service, large general service, and large power service;
(H) Demand means the rate of electric power use over an hour measured in kilowatts (kW);

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

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

1. *Cost recovery of demand-side program costs through capitalization of investments in demand-side programs;*
2. *Cost recovery of demand-side program costs through a demand-side program cost tracker;*
3. *Accelerated depreciation on demand-side investments;*
4. *Recovery of lost revenues; and*
5. *Utility incentive based on the achieved performance level of approved demand-side programs;*

(K) Demand-side program plan means a particular combination of demand-side programs to be delivered according to a specified implementation schedule and budget;

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

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

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

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

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

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

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

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

(T) Interruptible or curtailable rate means a rate under which a customer receives a reduced charge in exchange for agreeing to allow the utility to withdraw the supply of electricity under certain specified conditions;

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

(V) Preferred resource plan means the utility's resource plan that is contained in the resource acquisition strategy most recently adopted by the utility's decision-makers in accordance with 4 CSR 240-22;

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

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

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

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

(2) Guideline to Review Progress Toward an Expectation that the Electric Utility's Demand-Side Programs Can Achieve a Goal of All Cost-Effective Demand-Side Savings. The goals established in this section are not mandatory and no penalty or adverse consequence will accrue to a utility that is unable to achieve the listed annual energy and demand savings goals.

(A) The commission shall use the greater of the annual realistic **amount of** achievable energy savings and demand savings as determined through *[the utility's]* ~~a~~**the utility's or a utility-sponsored statewide** market potential study or the following incremental annual demand-side savings goals as a guideline to review progress toward an expectation that the electric utility's demand-side programs can achieve a goal of all cost-effective demand-side savings:

1. For *[2012]* **the utility's approved first program year**: three-tenths percent (0.3%) of total annual energy and one percent (1.0%) of annual peak demand;
2. For *[2013]* **the utility's approved second program year**: five-tenths percent (0.5%) of total annual energy and one percent (1.0%) of annual peak demand;
3. For *[2014]* **the utility's approved third program year**: seven-tenths percent (0.7%) of total annual energy and one percent (1.0%) of annual peak demand;
4. For *[2015]* **the utility's approved fourth program year**: nine-tenths percent (0.9%) of total annual energy and one percent (1.0%) of annual peak demand;
5. For *[2016]* **the utility's approved fifth program year**: one-and-one-tenth percent (1.1%) of total annual energy and one percent (1.0%) of annual peak demand;
6. For *[2017]***the utility's approved sixth program year**: one-and-three-tenths percent (1.3%) of total annual energy and one percent (1.0%) of annual peak demand;
7. For *[2018]* **the utility's approved seventh program year**: one-and-five-tenths percent (1.5%) of total annual energy and one percent (1.0%) of annual peak demand;
8. For *[2019]***the utility's approved eighth program year**: one-and-seven-tenths percent (1.7%) of total annual energy and one percent (1.0%) of annual peak demand; and
9. For *[2020]* **the utility's approved ninth** and subsequent **program** years, unless additional energy savings and demand savings goals are established by the commission: one-and-nine-tenths percent (1.9%) of total annual energy and one percent (1.0%) of annual peak demand each year.

(B) The commission shall also use the greater of the cumulative realistic *[achievable]* **amount of** energy savings and demand savings *[as]* **that is** determined **to be cost-effectively achievable** through *[the utility's]* ~~a~~ **the utility's or a utility sponsored statewide** market potential study or the following cumulative demand-side savings goals as a guideline to review progress toward an expectation that the electric utility's demand-side programs can achieve a goal of all cost-effective demand-side savings:

1. For *[2012]* **the utility's approved first program year**: three-tenths percent (0.3%) of total annual energy and one percent (1.0%) of annual peak demand;
2. For *[2013]* **the utility's approved second program year**: eight-tenths percent (0.8%) of total annual energy and two percent (2.0%) of annual peak demand;
3. For *[2014]* **the utility's approved third program year**: one-and-five-tenths percent (1.5%) of total annual energy and three percent (3.0%) of annual peak demand;
4. For *[2015]* **the utility's approved fourth program year**: two-and-four-tenths percent (2.4%) of total annual energy and four percent (4.0%) of annual peak demand;
5. For *[2016]* **the utility's approved fifth program year**: three-and-five-tenths percent (3.5%) of total annual energy and five percent (5.0%) of annual peak demand;
6. For *[2017]* **the utility's approved sixth program year**: four-and-eight-tenths percent (4.8%) of total annual energy and six percent (6.0%) of annual peak demand;
7. For *[2018]* **the utility's approved seventh program year**: six-and-three-tenths percent (6.3%) of total annual energy and seven percent (7.0%) of annual peak demand;
8. For *[2019]* **the utility's approved eighth program year**: eight percent (8.0%) of total annual energy and eight percent (8.0%) of annual peak demand; and
9. For *[2020]* **the utility's approved ninth** and subsequent **program** years, unless additional energy savings and demand savings goals are established by the commission: nine-and-nine-tenths percent (9.9%) of total annual energy and nine percent (9.0%) of annual peak demand for 2020, and then increasing by one-and-nine-tenths percent (1.9%) of total annual energy and by one percent (1.0%) of annual peak demand each year*[after 2020]*.

(3) Utility Market Potential Studies.

(A) The market potential study shall:

1. Consider both primary data and secondary data and analysis for the utility's service territory;

2. Be updated with primary data and analysis no less frequently than every four (4) years. To the extent that primary data for each utility service territory is unavailable or insufficient, the market potential study may also rely on or be supplemented by data from secondary sources and relevant data from other geographic regions;

3. Be prepared by an independent third party; and

4. Include an estimate of the achievable potential, regardless of cost-effectiveness, of energy savings from low-income demand-side programs. Energy savings from multifamily buildings that house low-income households may count toward this target;

(B) The utility shall provide an opportunity for commission staff and stakeholder review and input in the planning stages of the potential study including review of assumptions, methodology in advance of the performance of the study.

[(3)] **(4)** Applications for Approval of Electric Utility Demand-Side Programs or ~~Program Plans.~~Portfolio. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility may file an application with the commission for approval of a demand-side *[programs]* **portfolio*[*** *or program plans]*.

(A) Prior to filing for approval of demand-side ~~programs approval~~program or portfolio, the electric utility shall hold a stakeholder advisory meeting to receive input on the major components of its filing.

(B) As part of its application for approval of demand-side programs, the electric utility shall file or provide a reference to the commission case that contains any of the following information. All models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

1. ~~A current market potential study. If the market potential study of the electric utility that is filing for approval of demand-side programs or a demand-side portfolio, the sampling methodology shall~~

~~reflect~~The most recently completed market potential study that reflects each utility's service territory and shall provide statistically significant results for that utility:

A. Complete documentation of all assumptions, definitions, methodologies, sampling techniques, and other aspects of the ~~current~~ market potential study;

B. Clear description of the process used to identify the broadest possible list of measures and groups of measures for consideration;

2. Clear description of the process and assumptions used to determine technical potential, economic potential, maximum achievable potential, and realistic achievable potential for a twenty (20)-year planning horizon for major end-use groups (e.g., lighting, space heating, space cooling, refrigeration, motor drives, etc.) for each customer class; and

3. Identification and discussion of the twenty (20)-year baseline energy and demand forecasts. If the baseline energy and demand forecasts in the ~~current~~ market potential study differ from the baseline forecasts in the utility's most recent 4 CSR 240-22 triennial compliance filing, the ~~current~~ market potential study shall provide a comparison of the two (2) sets of forecasts and a discussion of the reasons for any differences between the two (2) sets of forecasts. The twenty (20)-year baseline energy and demand forecasts shall account for the following:

A. Discussion of the treatment of all of the utility's customers who have opted out;

B. Future changes in building codes and/or appliance efficiency standards;

C. Changes in customer ~~combined~~acc heat and power applications;

D. Third party and other naturally occurring demand-side savings, and

E. The increasing efficiency of advanced technologies.

(C) Demonstration of cost-effectiveness for each demand-side program and for the total of all demand-side programs of the utility. At a minimum, the electric utility shall include:

1. The total resource cost test and a detailed description of the utility's avoided cost calculations and all assumptions used in the calculation;

2. The utility shall also include calculations for the utility cost test, the participant test, the non-participant test, and the societal cost test; and

3. The impacts on annual revenue requirements and net present value of annual revenue requirements as a result of the integration analysis in accordance with 4 CSR 240-22.060 over the twenty (20)-year planning horizon.

(D) Detailed description of each proposed demand-side program to include at least:

1. Customers targeted;

2. Measures and services included;

3. Customer incentives;

4. Proposed promotional techniques;

5. Specification of whether the demand-side program will be administered by the utility or a contractor;

6. Projected gross and net annual energy savings;

7. Proposed annual energy savings targets and cumulative energy savings targets;

8. Projected gross and net annual demand savings;

9. Proposed annual demand savings targets and cumulative demand savings targets;

10. Net-to-gross factors;

11. Size of the potential market and projected penetration rates;

12. Any market transformation elements included in the demand-side program and an EM&V plan for estimating, measuring, and verifying the energy and capacity savings that the market transformation efforts are expected to achieve;

13. EM&V plan including at least the proposed evaluation schedule and the proposed approach to achieving the evaluation goals pursuant to 4 CSR 240-20.093(7);

14. Budget information in the following categories:

A. Administrative costs listed separately for the utility and/or program administrator;

B. Demand-side program incentive costs;

C. Estimated equipment and installation costs, including any customer contributions;

D. EM&V costs; and

E. Miscellaneous itemized costs, some of which may be an allocation of total costs for overhead items such as the market potential study or the statewide technical reference manual;

15. Description of all strategies used to minimize free riders;

16. Description of all strategies used to maximize spillover; and

17. For demand-side ~~program plans~~portfolio, the proposed implementation schedule of the individual demand-side programs.

(E) Demonstration and explanation in quantitative and qualitative terms of how the utility's demand-side programs are expected to make progress towards a goal of achieving all cost-effective demand-side savings over the life of the demand-side programs. Should the expected demand-side savings fall short of the incremental annual demand-side savings goals and/or the cumulative demand-side savings goals in subsection (2), the utility shall provide detailed explanation of why the incremental annual demand-side savings goals and/or the cumulative demand-side savings goals cannot be expected to be achieved, and the utility shall bear the burden of proof.

(F) Identification of demand-side programs which are supported by the electric utility and at least one (1) other electric or gas utility (joint demand-side programs).

(G) Designation of Program Pilots. For demand-side programs designed to operate on a limited basis for evaluation purposes before full implementation (program pilot), the utility shall provide as much of the information required under subsections (2)(C) through (E) of this rule as is practical and shall include explicit questions that the program pilot will address, the means and methods by which the utility proposes to address the questions the program pilot is designed to address, a provisional cost-effectiveness evaluation, the proposed geographic area, and duration for the program pilot.

(H) Any existing demand-side program with tariff sheets in effect prior to the effective date of this rule shall be included in the initial application for approval of demand-side programs if the utility intends for unrecovered and/or new costs related to the existing demand-side program be included in the DSIM cost recovery *[revenue requirement]* **amount** and/or if the utility intends to establish a *[utility]* **throughput disincentive***[lost revenue]* component of a DSIM or a**n** *[utility]* **earnings opportunity***[incentive]* component of a DSIM for the existing demand-side program. The commission shall approve, approve with modification acceptable to the electric utility, or reject such applications for approval of demand-side program plans within one hundred twenty (120) days of the filing of an application under this section only after providing the opportunity for a hearing. In the case of a utility filing an application for approval of an individual demand-side program, the commission shall approve, approve with modification acceptable to the electric utility, or reject applications within sixty (60) days of the filing of an application under this section only after providing the opportunity for a hearing.

[(A)] **(I) The commission shall consider the total resource cost test a preferred cost-effectiveness test.** For demand-side portfolios and programs~~ and program plans~~ that have a total resource cost test ratio greater than one (1), the commission shall approve demand-side portfolios and programs ~~or program plans~~, and annual demand and energy savings targets for each demand-side ~~program~~portfolio it approves, provided it finds that the utility has met the filing and submission requirements of *[4 CSR 240-3.164(2)]* **this rule** and the demand-side portfolios and programs *[and program plans]*—

1. Are consistent with a goal of achieving all cost-effective demand-side savings;
2. Have reliable evaluation, measurement, and verification plans; and
3. Are included in the electric utility's preferred plan or have been analyzed through the integration process required by 4 CSR 240-22.060 to determine the impact of the demand-side portfolio and programs ~~and program plans~~ on the net present value of revenue requirements of the electric utility.

[(B)] **(J)** The commission shall approve demand-side programs having a total resource cost test ratio less than one (1) for demand-side programs targeted to low-income customers or general education campaigns, if the commission determines that the utility has met the filing and submission requirements of *[4 CSR 240-3.164(2),]* **this rule**, the **demand-side** program*[or program plan]* is in the public interest, and **the demand-side program** meets the requirements stated in paragraphs (3)(*[A]***G**)2. and 3.

1. If a **demand-side** program is targeted to low-income customers, the electric utility must also state how the electric utility will assess the expected and actual effect of the **demand-side** program on the utility's bad debt expenses, customer arrearages, and disconnections.

[(C)] **(K)** The commission shall approve demand-side programs which have a total resource cost test ratio less than one (1), if the commission finds the utility has met the filing and submission requirements of *[4 CSR 240-3.164(2)]* **this rule** and the costs of such **demand-side** programs above the level determined to be cost-effective are funded by the customers participating in the **demand-side** programs or through tax or other governmental credits or incentives specifically designed for that purpose and meet the requirements as stated in paragraphs (3)(*[A]***G**)2. and 3.

[(D)] **(L)** Utilities shall file and receive approval of associated tariff sheets prior to implementation of approved demand-side programs.

[(E)] **(M)** The commission shall simultaneously approve, approve with modification acceptable to the utility, or reject the utility's DSIM proposed pursuant to 4 CSR 240-20.093.

*[(4)]***(5)** Applications for Approval of Modifications to Electric Utility Demand-Side Programs.

(A) Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility

1. Shall file an application with the commission for modification of demand-side programs *[by filing information and documentation required by 4 CSR 240-3.164(4)]* when there is a variance of *[twenty]* **forty** percent (*[2]***4**0%) or more in the approved demand-side plan three (3)-year budget and/or any **demand-side** program design modification which is no longer covered by the approved tariff sheets for the **demand-side** program.

2. ~~Shall file an application with the commission for modification of demand-side programs, including but not limited to the following:~~

~~A. Reallocation of funds among demand-side programs;~~

~~B. Changes in allocation based on contract implementers input, such as if a demand-side program is performing below expectations;~~

~~C. changes in incentive amounts paid to customers.~~

~~3.~~

The application shall include a ~~complete~~reasonably detailed explanation for and documentation of the proposed modifications to each of the filing requirements in section (3). All models and spreadsheets shall be provided as executable versions in native format with all formulas intact.

4. The electric utility shall serve a copy of its application to all parties to the case under which the Demand-Side Programs were approved.
5. The parties shall have thirty (30) days from the date of filing of an application to object to the application to modify.
6. If no objection is raised within 30 days, the commission shall approve, approve with modification acceptable to the electric utility, or reject such applications for approval of modification of demand-side programs within *[thirty]* **forty-five** (*[30]***45**) days of the filing of an application under this section, *[sub]*section*[s]*to the same guidelines as established in section (3)*[(A) through (C)]*.
7. If objections to the application are raised, the Commission shall provid**e** the opportunity for a hearing.

*[(A)]***(B)** For any **demand-side** program design modifications approved by the commission, the utility shall file for and receive approval of associated tariff sheets prior to implementation of approved modifications.

[(5)] **(6)** Applications for Approval to Discontinue Electric Utility Demand-Side Programs. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility may file an application with the commission to discontinue demand-side programs *[by filing information and documentation required by 4 CSR 240-3.164(5)]*.

(A) The application shall include the following information. All models and spreadsheets shall be provided as executable versions in native format with all formulas intact.

1. **Complete explanation for the utility's decision to request to discontinue a demand-side program.**
2. **EM&V reports for the demand-side program in question.**
3. **Date by which a final EM&V report for the demand-side program in question will be filed.**

(B) If the TRC calculated for a demand-side program~~ subject~~, not targeted to ~~the TRC~~ low income customers or a general education campaign, is ~~determined~~ not~~ to be~~ cost-effective, the electric utility shall identify the causes why and present possible demand-side program modifications that could make the demand-side program cost-effective. If analysis of these modified demand-side program designs suggests that none would be cost-effective, the demand-side program may be discontinued. In this case, the utility shall describe how it intends to end the demand-side program and how it intends to achieve the energy and demand savings initially estimated for the discontinued demand-side program. Nothing ~~here in~~herein requires utilities to end any demand-side program which is subject to a cost-effectiveness test deemed not cost-effective immediately. ~~Utilities~~A utility's proposal for any discontinuation of a demand-side program should consider, but not be limited to: the potential impact on the market for energy efficiency services in its territory; the potential impact to vendors and the utilities relationship with vendors; the potential disruption to the market and to customer outreach efforts from immediate starting and stopping of demand-side programs; and whether the long term prospects indicate that continued pursuit of a demand-side program will result in a long term cost-effective benefit to ratepayers.

(C) The commission shall approve or reject such applications for discontinuation of utility demand-side programs within thirty (30) days of the filing of an application under this section only after providing an opportunity for a hearing.

[(6)] **(7)** Provisions for Customers to Opt-Out of Participation in Utility Demand-Side Programs.

(A) Any customer meeting one (1) or more of the following criteria shall be eligible to opt-out of participation in utility-offered demand-side programs:

1. The customer has one (1) or more accounts within the service territory of the electric utility that has a demand of the individual accounts of five thousand (5,000) kW or more in the previous twelve (12) months;

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

3. The customer has accounts within the service territory of the electric utility that have, in aggregate across its accounts, a coincident demand of two thousand five hundred (2,500) kW or more in the previous twelve (12) months, 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 **demand-side** programs.

The customer shall submit to commission staff sufficient documentation to demonstrate compliance with these criteria, including the amount of energy savings. Examples of documentation could include, but are not limited to:

A. Lists of all energy efficiency measures with work papers to show energy savings and demand savings. This can include engineering studies, cost benefit analysis, etc.;

B. Documentation of anticipated lifetime of installed energy efficiency measures;

C. Invoices and payment requisition papers; or

D. Other information which documents compliance with this rule.

E. For utilities with automated meter reading and/or advanced metering infrastructure capability, the measure of demand is the customer coincident highest billing demand of the individual accounts during the twelve (12) months preceding the opt-out notification.

F. Any confidential business information submitted as documentation shall be clearly designated as such in accordance with 4 CSR 240-2.135.

~~4~~G. Opt-out in accordance with subsection (7)(A)(3) shall be valid for the term of the ~~MEEIA cycle~~implementation period approved by the commission. Customers who opt-out consistent with subsection (7)(A)(3) may apply to opt-out again in successive ~~MEEIA cycles~~implementation periods, consistent with the requirements of subsection (7)(A)(3).

(B) Written notification of opt-out from customers meeting the criteria under paragraph *[(6)]***(7)**(A)1. or 2. shall be sent to the utility serving the customer. Written notification of opt-out from customers meeting the criteria under paragraph *[(6)]***(7)**(A)3. shall be sent to the utility serving the customer and the manager of the energy resource analysis section of the commission or submitted through the commission's electronic filing and information system (EFIS) as a non-case-related filing. In instances where only the utility is provided notification of opt-out from customers meeting the criteria under paragraph *[(6)]***(7)**(A)3., the utility shall forward a copy of the written notification to the manager of the energy resource analysis section of the commission and submit the notice of opt-out through EFIS as a non-case-related filing.

(C) Written notification of opt-out from customer shall include at a minimum:

1. Customer's legal name;

2. Identification of location(s) and utility account number(s) of accounts for which the customer is requesting to opt-out from demand-side program's benefits and costs; and

3. Demonstration that the customer qualifies for opt-out.

(D) For customers filing notification of opt-out under paragraph *[(6)]***(7)**1. or 2., notification of the utility's acknowledgement or plan to dispute a customer's notification to opt-out of participation in demand-side programs shall be delivered in writing to the customer and to the staff within thirty (30) days of when the utility received the written notification of opt-out from the customer.

(E) For customers filing notification of opt-out under paragraph *[(6)]***(7)**(A)3., the staff will make the determination of whether the customer meets the criteria of paragraph *[(6)]***(7)**(A)3. Notification of the staff's acknowledgement or disagreement with customer's qualification to opt-out of participation in demand-side programs shall be delivered to the customer and to the utility within thirty (30) days of when the staff received *[written notification]* **complete documentation of compliance with (7)(A)3** *[of the opt-out]*.
(F) Timing and Effect of Opt-Out Provisions.

1. A customer notice **of opt-out** shall be received by the utility no earlier than September 1st and not later than October 30th to be effective for the following *[calendar]* ~~**program** year~~calendaryear.

2. For that calendar year **in which the customer receives acknowledgement of opt-out** and each successive *[calendar]* ~~**program**~~**calendar** year until the customer revokes the notice pursuant to subsection (6)(H), **or the customer is notified that it no longer satisfies the requirements of Section (7)(A)3,** none of the costs of approved demand-side programs of an electric utility offered pursuant to 4 CSR 240-20.093, 4 CSR 240-20.094,*[4 CSR 240-3.163, AND 4 CSR 240-3.164]* or by other authority and no other charges implemented in accordance with section 393.1075, RSMo, shall be assigned to any account of the customer, including its affiliates and subsidiaries listed on the customer's written notification of opt-out.

(G) Dispute Notices. If the utility or staff provides notice that a customer does not meet the opt-out criteria to qualify for opt-out **or renewal of opt-out**, the customer may file a complaint with the commission. The commission shall provide notice and an opportunity for a hearing to resolve any dispute.

(H) Revocation. A customer may revoke an opt-out by providing written notice to the utility and commission two to four (2–4) months in advance of the *[calendar]* ~~**program**~~calendar year for which it will become eligible for the utility's demand-side program**s**'[s] costs and benefits. Any customer revoking an opt-out to participate in a **demand-side** program**s** will be required to remain in the **demand-side** program**(s)** for the number of years over which the cost of that **demand-side** program**(s)** is being recovered, or until the cost of their participation in th**e** [at] **demand-side** program**(s)** has been recovered.
(I) A customer who participates in demand-side programs initiated after August 1, 2009, shall be required to participate in **demand-side** program**s** funding for a period of three (3) years following the last date when the customer received a demand-side incentive or a service. **Participation shall be determined based on premise location regardless of the ownership of the premise.**

(J) A customer electing not to participate in an electric utility's demand-side programs under this section shall still be allowed to participate in interruptible or curtailable rate schedules or tariffs offered by the electric utility.

*[(7)]***(8)** Tax Credits and Monetary Incentives.
(A) Any customer of an electric utility who has received a state tax credit under sections 135.350 through 135.362, RSMo, or under sections 253.545 through 253.*5[61]**59***, RSMo, shall not be eligible for participation in any demand-side program offered by a utility if such **demand-side** program offers the customer a monetary incentive to participate. **The provisions of this subsection shall not apply to any low income customer who would otherwise be eligible to participate in a demand-side program that is offered by a utility to low income customers.**

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(B) ~~As a condition of participation in any demand-side program offered by an electric utility under this section, when such **demand-side** program offers~~**For programs that offer a monetary incentive**~~to~~**, the** ~~customer, the customer~~**Utility shall** ~~attest to non-~~**include in the application Terms and Conditions that prior receipt of** ~~any~~**Low Income state tax** ~~credit listed in subsection (7)(A) and acknowledge that the~~**credits under sections 135.350 through 135.362, RSMo or Historical state tax credits sections 253.545 through**

253.5 [61]59 and participation in a program offering a monetary incentive is not permitted. The penalty for a customer who provides false documentation is a class A misdemeanor. ~~The electric utility shall maintain documentation of customer attestation and acknowledgement for the term of the demand-side program and three (3) years beyond.~~

(C) The electric utility shall maintain a database of participants of all demand-side programs offered by the utility when such **demand-side** programs offer a monetary incentive to the customer including the following information:

1. The name of the participant, or the names of the principals if for a company;
2. The service property address; and
3. The date of and amount of the monetary incentive received.

(D) Upon request by the commission or staff, the utility shall disclose participant information in subsections (7)(B) and (C) to the commission and/or staff.

[(8)] **(9)** Collaborative Guidelines.

(A) Utility-Specific Collaboratives. Each electric utility and its stakeholders shall form a utility-specific advisory collaborative for input on the design, implementation, and review of demand-side programs as well as input on the preparation of market potential studies. This collaborative process may take place simultaneously with the collaborative process related to demand-side programs for 4 CSR 240-22. Collaborative meetings are encouraged to occur at least once each calendar quarter.

In order to provide appropriate and informed input on the design, implementation, and review of demand-side programs the stakeholders will be provided drafts of all plans and documents prior to meeting with adequate time to review and provide comments. In addition, all stakeholders will be provided opportunity to inform and suggest agenda items for each meeting and to present presentations and proposal. All participants shall be given a reasonable period of time to propose agenda items and prepare for any presentations.

(B) State-Wide Collaborative*[s]*

1. Electric utilities and their stakeholders shall form**ally establish** a state-wide advisory collaborative *[to: 1) address the creation of a technical resource manual that includes values for deemed savings, 2) provide the opportunity for the sharing, among utilities and other stakeholders, of lessons learned from demand-side program planning and implementation, and 3) create a forum for discussing statewide policy issues]*.

The Collaborative shall:

A. ~~Create and implement~~Explore statewide protocols for evaluation, measurement, and verification of energy efficiency savings, no later than July 1, 2018~~, and updated annually thereafter;~~ ;
B. Establish individual working groups to address the creation of the specific deliverables of the collaborative; and
C.. Create a semi-annual forum for discussing and resolving statewide policy issues, wherein utilities may share lessons learned from demand-side program planning and implementation and wherein stakeholders may provide input on how to implement the recommendations of the individual working groups.
D. Explore other opportunities, such as development of a percentage adder for non-energy benefits.

2. Within sixty (60) days of the effective date of this rule, commission staff shall file, with the commission, a charter for the statewide advisory collaborative.

3. Collaborative meetings **shall** occur at least **semi-annually**. Additional meetings or conference calls will be scheduled as needed. Staff shall **schedule the meetings,** provide notice of the meetings and **any** interested persons may attend such meetings.

(10) Statewide Technical Resource Manual

(A) Utilities and stakeholders will work to create and implement a statewide TRM that includes values and formulas for deemed savings and includes commonly used measures for all utility sectors;

(B) The initial statewide TRM shall be submitted to the commission for review -

1. The commission may either approve or reject the ~~proposed~~initial statewide TRM;

2. If the commission rejects the ~~proposed~~initial statewide TRM, stakeholders shall address the commission concerns and submit a revised statewide TRM within 90 days of an order rejecting.

(C) Upon approval of ~~a~~the initial statewide TRM, the commission may instruct the collaborative to begin the process of securing a vendor to provide an electronic, web-based platform that will facilitate annual updates and the tracking of the updates.

1. Funding for the electronic platform and annual updates shall be provided by investor-owned utilities without MEEIA programs through their Public Service Commission assessment and by investor-owned utilities with MEEIA programs through their cost recovery component of a DSIM;

(D) The statewide TRM shall be updated ~~by December 31 of each year~~annually following commission approval of the initial statewide TRM;

1. ~~Staff~~Within 90 days of the approval of the initial Statewide TRM, the utilities, through the Statewide Collaborative process, shall be responsible for establishing a process and schedule for updating the ~~statewide~~Statewide TRM~~–~~

A. ~~No later than July 1 of each year, Staff~~The utilities shall convene one or more statewide stakeholder meetings annually to seek input on revisions to the TRM;

2. Annual updates shall be submitted to the commission for review ~~no later than September 1 of each year -~~

A. The commission may either approve or reject the proposed revisions ~~no later than October 1 of each year~~;

B. If the commission rejects the ~~proposed~~updates to the statewide TRM, utilities and stakeholders shall address the commission concerns and submit a revised statewide TRM within 30 days of an order rejecting;

(E) The commission may consider the appropriateness of using an approved statewide TRM in each utility's application for approval of demand-side programs.

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

[(10) Rule Review. The commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.]

AUTHORITY: sections 393.1075.11 and 393.1075.15, ~~RSMo Supp. 2010.~~(2016).* Original rule filed Oct. 4, 2010, effective May 30, 2011.*

**Original authority: 393.1075, RSMo 2009.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for [time, place and address of hearing].*