Topics the 376 Rule Must Cover:

- Policy and purpose
- Filing and review of energy efficiency plans
    - Timing and duration
    - Content
    - Process
    - Relationship to IRP
- Amendment or modification of plans
- Reporting
    - Annual
    - Quarterly
- Timely cost recovery
- Alignment of utility financial incentives
- Timely earnings opportunities

Policy and Purpose

The Missouri Energy Efficiency Investment Act requires that the Commission permit "electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings." (Section 393.1134(4)) The purpose of these rules is to establish the framework by which the utilities will propose and the Commission will review and decide upon such demand-side programs, including the programs offered and measures included, the treatment of incurred costs, and the method of aligning utilities financial incentives and earnings opportunities with the state's interest in having utilities help customers use energy more efficiently.

Filing and Review of Demand-Side Programs

- Timing and duration:
    - Initial plans should be due on a staggered schedule such that the last utility's plan is reviewed and ready for implementation no later than [date]
    - Thereafter, plans should be due within 3 years unless the utility shows that a plan up to 5 years in length is more beneficial.
        - For the three utilities subject to the IRP rule, the DSP plan should occur not later than [] months after the completion of the IRP process.
- Content:
    - Market/potential assessment
    - Description of the measures reviewed by the utility for possible inclusion in programs;
        - For purposes of the initial filings or measures newly considered in a particular plan, utilities shall base the costs and savings estimates associated with measures on the best available information, including but not limited to actual values experienced by the utility itself or utilities operating in similar markets.
        - After the initial filings, utilities shall base the costs and savings estimates on the results of evaluation, measurement and verification, as described below.
    - Description of the programs selected, including for each, by year:
        - Customers targeted;
        - Measures included;

        - Proposed promotional techniques, including incentives, rebates and other
        - Projected energy savings;
        - Projected demand savings;
        - Size of the market/potential and projected penetration rate; and
        - Budget information, separated into:
            - Planning and design costs;
            - Administrative costs;
            - Advertising and promotional costs;
            - Customer incentive costs;
            - Equipment costs;
            - Installation costs;
            - Monitoring and evaluation costs; and
            - Miscellaneous costs.
    - Plans may include pilot programs and experimental programs designed as research and development
    - An assessment whether the Demand-Side Program achieves the statutory goal of capturing all cost-effective demand-side savings. For the first ten years, if the utility cannot demonstrate that its Program captures all cost-effective energy savings potential, it may nonetheless propose and gain approval for a plan if it achieves the following savings targets -
            - By 2012 .7% of the company's total annual kwh sales;
            - By 2013 .9% of the company's total annual kwh sales;
            - By 2014 1.1% of the company's total annual kwh sales;
            - By 2015 1.3%...
            - By 2016 1.5%...
            - By 2017 1.7%...
            - By 2018 1.9%...
            - By 2019 2%...
            - By 2020 2%...
    - A demonstration that the Demand-Side Program portfolio as a whole meets the total resource cost test, including
        - A detailed description of the utility's avoided cost calculations and all underlying assumptions used in the calculation
            - For assumptions involving uncertainty, the utility shall identify a range of values with, at a minimum, a high, base, and low case
        - To the extent that any identified measure, program or the portfolio fails to meet the TRC test, the utility shall examine whether the failure persists if it considers uncertainty in the calculation of avoided cost
    - A description of any strategies used to minimize free-riders;
    - A description of any strategies used to maximize spillover;
    - A plan to obtain independent measurement, evaluation and verification of the programs in the portfolio, including:
        - The process for issuing an RFP for an independent third party evaluator;
        - A process by which the selected evaluator will report evaluation results to the commission and to stakeholders;
        - An evaluation budget not to exceed 5% of the portfolio budget;
        - Evaluation goals;

        - An evaluation schedule;
        - An evaluation methodology, including approaches for calculating gross and net energy savings.
    - 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.
    - A listing of customers who have opted out of participating in the programs pursuant to Section 7 of the statute;
- Process:
    - Utilities are encouraged to prepare their Programs in a collaborative process
    - Commission shall docket a filed plan as a contested case proceeding within 30 days of receipt
        - Interventions
        - Schedule designed to permit decision within 180 days
    - Parties may propose approval, modification, or rejection of a utility's assessment of potential and accompanying plan. All testimony, exhibits, and work papers shall be filed with any proposal. The testimony, exhibits, and work papers of the party shall include, if applicable:
        - An analysis showing why rejection of the proposed utility assessment of potential and plan is appropriate;
        - A statement of any proposed modification or alternate plan and why approval is appropriate;
        - An estimated implementation schedule for any modification or alternate plan; and
        - A statement of the projected costs and benefits and benefit/cost test results as a result of any modification or alternate plan and the amount of difference from the utility's projected costs and benefits.
    - Following a hearing, the Commission shall approve, approve with modifications, or reject the utility's Demand-Side Program. If the Commission rejects the plan, it shall notify the utility of the reasons for rejection and set a schedule by which the utility will file a new plan addressing the reasons for rejection.
- Relationship to IRP

Amendment or Modification of Demand-Side Programs

- Utilities encouraged to form collaborative groups for ongoing review of implementation, consideration of the results of EM&V and actual experience, and development of any plan amendments and the next plan.
    - [Establish process-based incentives for having a collaborative? Faster review? Presumptions if members of the collaborative support the plan or amendment?]
- Utilities may file for amendments [require a certain significance?]
- Commission shall docket and conduct a hearing to consider the amendment, following the same general process as for the Program plan, except that it shall design the schedule to permit a decision within 45-60 days, depending on the complexity and extent of the amendment.
- Utility may re-allocate funds among programs without requesting an amendment if the reallocation does not change the original budgeted amounts by more than [].

Annual and Quarterly Reporting

- Within [] days following the end of a 12-month period under an approved Demand-Side Program plan, the utility shall file a report showing:
    - Actual revenues collected under the Demand-Side Program automatic cost recovery mechanism;
    - Actual amounts expended under the Demand-Side Program;
    - Lifetime gross and net demand and energy savings achieved under each program:
        - Per the results of EM&V; or
        - If the results of EM&V are not yet available, per the planning assumptions with an affirmative statement when the results of EM&V will become available
    - A demonstration that the plan achieved all cost-effective energy savings potential, or in the alternative, meets the energy savings targets of this rule.
    - A demonstration that the allocation of costs among customer classes did not unreasonably burden any particular customer class.
- Within [] days following the end of each quarter of a 12-month period under an approved Demand-Side Program plan, the utility shall file a report on:
    - Estimated expenditures made to carry out commission approved energy efficiency plans, on a program-specific basis;
    - Estimate annual and lifetime savings associated with those expenditures; and
    - Any significant ways in which implementation of the Demand-Side Program is deviating from the expectations set in the planning process.

Timely Cost Recovery

- Utilities may recover actual costs expended under an approved Demand-Side Program plan, including a carrying charge on costs incurred but not yet recovered, through an automatic adjustment mechanism. The carrying charge shall be [AFUDC rate; or weighted average cost of capital].
- Utilities shall maintain accounting plans and procedures to account for all Demand-Side Program costs incurred on or after [date, could be contemporaneous with annual report on results of the Demand-Side Resource Portfolio], including an accounting system that identifies individual costs (such as planning and design, labor, advertising, rebates, and evaluation) by each program.
- Each utility with an approved Demand-Side Program shall file by [date] of each year the costs it proposes to recover for the 12-month period beginning at the start of the first utility billing month at least 30 days following Commission approval. An initial filing may occur up to 120 days after the effective date of these rules. Costs covered by the automatic adjustment mechanism will be the total of:
    - The costs the utility expects to incur in the subsequent 12-month period in implementation of its Demand-Side Program;
    - 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
    - Excluding any previously recovered costs that, in a prudence review as described in [rule reference], the Commission has determined were imprudently incurred.
- Prudence reviews. The Commission may periodically conduct a contested case to evaluate the reasonableness and prudence of the utility's implementation of its Demand-Side Program. The burden shall be on the utility to prove it has taken all reasonable actions to implement program as approved by the Commission.

Aligning Financial Incentives

- Contemporaneously with filing its Demand-Side Program, a utility may file a proposed rate mechanism under which it eliminates its incentive to increase sales between rate cases and ensures that the success of its Demand-Side Program does not cause it financial harm.
- The proposed mechanism may not diminish in any respect current customer incentives to undertake effort or investment to increase the efficiency with which they use energy.
- The Commission shall:
    - Docket the proposed mechanism as a contested case filing;
    - Hold a hearing; and
    - Approve the mechanism, approve the mechanism with modifications, or reject the mechanism with specific reasons consistent with the Missouri Energy Efficiency Investment Act. In the case of rejection, the utility may re-file a proposal that addresses the reasons for the Commission's rejection.

Timely Earnings Opportunities

- It shall be the policy of the Commission that utilities have an opportunity to produce earnings:
    - Based on the value created by their efforts under an approve Demand-Side Program, as indicated by achieving the energy and demand savings in an approved plan
        - Per the cost and benefit estimates used to determine the plan or, for program years following the results of EM&V, per the actual costs and benefits
    - For strong performance compared to applicable goals
        - With no earnings available for achieved savings less than 75% of the greater of the default targets above or the plans goals
        - With greater reward for increasing benefits beyond planning estimates
    - 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.
- Contemporaneously with filing its Demand-Side Program, a utility may file a proposed rate mechanism under which it has an earnings opportunity for achievements under its Demand-Side Program consistent with the Commission's policy.
- The Commission shall:
    - Docket the proposed mechanism as a contested case filing;
    - Hold a hearing; and
    - Approve the mechanism, approve the mechanism with modifications, or reject the mechanism with specific reasons consistent with the Missouri Energy Efficiency Investment Act. In the case of rejection, the utility may re-file a proposal that addresses the reasons for the Commission's rejection.