

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

4 CSR 240-20.093 Electric Utility Demand-Side Programs Investment Mechanisms

PURPOSE: This rule allows the establishment and operation of a Demand-Side Programs Investment Mechanism (DSIM), which allows periodic rate adjustments related to recovery of costs and utility incentives for investments in demand-side programs.

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

(A) All cost-effective demand-side savings goals are ~~the greater of~~ either of the realistic achievable energy savings and demand savings as determined through a utility market potential study or the incremental annual energy savings goals and incremental annual demand savings goals in 4 CSR 240-20.094(2).

(B) Annual demand net shared benefits means a utility's avoided demand costs ~~measured through EM&V~~ for approved demand-side programs less the sum of the programs' costs ~~and participants' costs~~ for approved demand response programs.

(C) Annual demand savings performance level means the annual demand savings ~~which are achieved and measured/documentated through demand side programs EM&V reports~~ divided by the annual demand savings target.

(D) Annual demand savings target means the amount of annual demand savings from a utility's approved demand-side programs established by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A).

(E) Annual energy net shared benefits means a utility's avoided energy costs ~~measured through EM&V~~ for approved demand-side programs less the sum of the programs' costs ~~and participants' costs~~ for approved energy efficiency programs.

(F) Annual energy savings performance level means the annual energy savings ~~which are achieved and measured/documentated through demand side programs EM&V reports~~ divided by the annual energy savings target.

(G) Annual energy savings target means the amount of annual energy savings from a utility's approved demand-side programs as established by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A).

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

(I) Annual utility incentive award level means the percent of annual net shared benefits that the utility will receive as a utility incentive.

(J) Annual net shared benefits means ~~the annual sum of the net present value of a~~ utility's avoided energy costs and avoided demand costs associated with spending measured through EM&V for approved demand-side programs for a program year less the sum of the programs' costs ~~and participants' costs~~ for the approved demand-side programs for a program year.

(K) Approved demand-side program means a demand-side program or demand-side program pilot which is approved by the commission in accordance with 4 CSR 240-20.094(3) or 4 CSR 240-20.094(4).

(L) Customer class means major customer rate groupings such as residential, small general service, large general service and large power service. Non-residential classes may further be defined as commercial and industrial.

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

(N) Demand response measure means measure that decreases demand or shift demand to a different time period.

(O) Demand savings target means the reduction in a utility's peak demand relative to the baseline peak demand forecast approved by the commission in accordance with 4 CSR 240-20.094(3) for the purpose of determining the utility's demand-side programs annual demand savings performance level in a general rate proceeding. ~~Demand savings target means the expected reduction in a utility's peak demand relative to the baseline peak demand forecast approved by the commission in a general rate proceeding for the purpose of determining the utility's demand-side programs annual demand performance level in a subsequent general rate proceeding.~~

(P) Demand-side programs investment mechanism or DSIM means a mechanism approved by the commission in a utility's general rate proceeding to encourage investments in demand-side programs. The DSIM may include, in combination and without limitation:

1. Cost recovery of demand-side program costs based on both historical and forecast data ~~through capitalization of investments in demand-side programs;~~

2. Cost recovery of demand-side program costs through a demand-side program cost tracker;

3. Recovery of the cost of approved demand-side programs between rate cases;

4. Accelerated depreciation ~~on~~ of demand-side ~~investments~~ program costs;

5. Recovery of lost revenues directly attributable to the demand-side programs between rate cases to ensure the success of its demand-side program does not cause it financial harm; and

5.6. ~~A utility incentive or penalty~~ based on the achieved performance level of approved demand-side programs.

(Q) 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.

(R) DSIM cost recovery revenue requirement means the revenue requirement approved by the commission in a general rate proceeding to allow recovery of costs of demand-side programs with interest.

(S) DSIM lost revenue revenue requirement means the revenue requirement approved by the commission in a general rate proceeding to allow recovery of lost revenues directly attributable to demand-side programs.

~~(S)~~(T) DSIM rate means dollar per kilowatt-hour (\$ per kWh) charge on customer's bill for the portion of DSIM revenue requirement assigned by the commission to a customer class.

~~(T)~~(U) DSIM revenue requirement means the sum of the DSIM cost recovery revenue requirement, the DSIM lost revenue revenue requirement and the DSIM utility incentive revenue requirement.

~~(U)~~(V) DSIM utility incentive revenue requirement means the revenue requirement approved by the commission in a general rate proceeding equal to utility annual energy incentive award level times the annual energy net shared benefits of the utility plus the utility annual demand incentive award level times the annual demand net shared benefits of the utility.

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

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

~~(X)~~(Y) Energy savings target means the reduction in a utility's annual energy sales relative to the baseline energy sales forecast approved by the commission in accordance with 4 CSR 240-20.094(3) for the purpose of determining the utility's demand-side programs annual energy savings performance level in a general rate proceeding.
~~Energy savings target means the expected reduction in a utility's annual energy sales relative to the baseline energy sales forecast approved by the commission in a general rate proceeding for the purpose of determining the utility's demand-side programs annual energy performance level in a subsequent general rate proceeding.~~

~~(Y)~~(Z) Evaluation, measurement and verification or EM&V means the performance of studies and activities intended to evaluate the process of and to estimate the energy and demand savings and other effects from demand-side programs.

~~(Z)~~(AA) General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs or rates and charges of the electric utility are considered by the commission.

~~(AA)~~(BB) Lost revenue means the reduction in revenue that occurs when energy efficiency, demand response and/or conservation efforts cause a drop in sales or demand below the level used to set the electricity price. Sources of energy efficiency, demand response or conservation efforts can be from utility sponsored programs, third party sponsored programs, building codes, or appliance efficiency standards.

~~(AA)~~(CC) Net shared benefits means the sum of a utility's avoided energy costs and avoided demand costs ~~measured through EM&V~~ for approved demand-side programs less the sum of the programs' costs ~~and participants' costs~~ for the approved demand-side programs.

~~(BB)~~(DD) Staff means all commission employees, except the secretary to the commission, general counsel, technical advisory staff as defined by section 386.135 RSMo, hearing officer, or administrative or regulatory judge.

~~(CC)~~(EE) Statewide technical reference manual means a document that is used by electric utilities to assess energy savings and demand savings attributable to energy efficiency measures and demand response measures.

~~(DD)~~(FF) Total resource cost test means the test that ~~measures~~compares the ~~net sum of~~ avoided utility costs plus net avoided probable environmental costs to the net sum of

~~all~~ incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus net utility costs to administer, deliver and evaluate each demand-side programs to quantify the net savings obtained by substituting the demand-side program for supply-side resources.

~~(EE)(GG)~~ Utility cost test means the test that measures~~compares~~ the net avoided utility costs to the net sum of all utility incentive payments, plus net 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.

~~(FF)(HH)~~ Utility incentive component of DSIM means revenue requirement approved by the commission in a general rate proceeding to allow the utility to receive a portion of the net shared benefits of approved demand-side programs as measured/documented through EM&V.

~~(GG)(II)~~ Utility market potential study means an evaluation and report by an independent third party of the cost-effective energy savings and cost-effective demand savings available in a utility's service territory broken down by market segment and major end-uses within each market segment.

(2) Applications to establish, continue, or modify a DSIM. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility shall file an application with the commission to establish, continue or modify a DSIM in a general rate proceeding.

(A) The electric utility shall meet the filing requirements in 4 CSR 240-3.163(2) in conjunction with an application to establish a DSIM and 4 CSR 240-3.163(3) in conjunction with an application to continue or modify a DSIM.

(B) Any party to the general rate proceeding may support or oppose the establishment, continuation or modification of a DSIM and/or may propose an alternative DSIM for the commission's consideration including but not limited to modifications to any electric utility's proposed DSIM.

(C) The commission shall approve the establishment, continuation or modification of a DSIM and associated tariff sheets if it finds the DSIM is designed to:

1. Provide the electric utility with timely recovery for all reasonable and prudent costs of delivering cost-effective demand-side programs;
2. 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
3. Provide timely earnings opportunities associated with cost-effective measurable and verifiable energy and demand savings.

(D) In addition to any other changes in business risk experienced by the electric utility, the commission shall consider changes in the utility's business risk resulting from establishment, continuation or modification of the DSIM in setting the electric utility's allowed return on equity in general rate proceedings.

(E) In determining to approve, modify, or continue a DSIM, the commission shall consider, but is not limited to only considering, the expected magnitude of the impact of the utility's approved demand-side programs on the utility's costs, revenues and earnings, the ability of the utility to manage all aspects of the approved demand-side programs, the ability to measure and verify the approved program impact, and the incentives ~~or~~

~~disincentives~~ provided to the utility as a result of the inclusion or exclusion of cost recovery component and/or utility incentive component in the DSIM.

(F) Any cost recovery component of a DSIM shall be based on costs of demand-side programs approved by the commission in accordance with 4 CSR 240-20.093(32) and 4 CSR 240-20.093(4). Indirect costs associated with demand-side programs, including but not limited to costs of utility market potential study and/or utility's portion of statewide technical reference manual, shall be allocated to demand-side programs and thus eligible for recovery through an approved DSIM. ~~The commission shall order any DSIM cost recovery revenue requirements in a general rate proceeding.~~

(G) Any lost revenue component of a DSIM shall be based on lost revenues directly attributable to demand-side programs approved by the commission in accordance with 4 CSR 240-20.093(2) and 4 CSR 240-20.093(4). The commission shall order recovery of any DSIM lost revenue revenue requirements in a general rate proceeding.

(G)(H) Any utility incentive component of a DSIM shall be based on the percentage of net shared benefits achieved and validated ~~documented~~ through EM&V reports for approved demand-side programs which have commission-~~approved~~ established annual energy savings targets and/or annual demand savings targets in accordance with 4 CSR 240-20.094(3)(A).

1. Annual energy and demand savings targets ~~approved~~ established by the commission for the DSIM utility incentive component are not the same as the goals for all cost-effective demand-side savings established by the commission in accordance with 4 CSR 240-20.094(2).

2. The ~~commission shall order any DSIM utility incentive revenue requirement in a general rate proceeding and the DSIM~~ utility incentive revenue requirement shall be equal to utility's annual energy incentive award level times the annual energy net shared benefits of the utility plus the utility's annual demand incentive award level times the annual demand net shared benefits of the utility.

3. The utility annual energy incentive award level shall be a function of the utility annual energy savings performance level and the utility annual demand incentive award level shall be a function of the utility annual demand savings performance level.

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~~(H)(I)~~ A utility application for a DSIM may include a provision to annually adjust the DSIM rates. These adjustments shall to include the true-up for over-collection and/or under-collection of the DSIM revenue requirement related to the items identified in 4 CSR 240-20.093(1)(P) and/or to annually adjust the DSIM rates to include the DSIM revenue requirement attributable to new, modified or eliminated demand-side programs in accordance with 4 CSR 240-20.094(4).

~~(H)(J)~~ The Commission shall apportion the DSIM revenue requirement to each customer class using the following guidelines:

1. To the extent identifiable, costs (including incentives, services, administration, EM&V and others) shall be assigned to the rate schedules of customers receiving the demand-side device or service. Where more than one rate schedule is eligible, costs that cannot be specifically attributed to a single rate schedule shall be allocated among all eligible rate schedules.

2. In allocating the costs between rate schedules, the utility shall estimate the demand related portion and the energy-related portion using the relationship between the demand-related and energy-related avoided costs that were used to justify the demand-side measure or program.

3. In allocating the costs between rate schedules, the demand-related portion will be allocated on the contribution to seasonal peak demand of each rate schedule. For summer peaking utilities, the summer peak demand will be used, and for utilities with dual summer and winter peaks, the average of the summer and winter peak demands will be utilized. Energy-related costs will be allocated in proportion to rate schedule energy. Both demand and energy allocation factors will be adjusted to the generation level.

4. In assigning or allocating costs to rate schedules, no cost shall be attributed based on the load characteristics of customers who have opted out of the utility's DSM program.

5. 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. Any such costs not charged to low income customers will be assigned to other customers within the residential class.

~~(K)~~ (K) If the commission approves a utility incentive component to the DSIM, such utility incentive component shall be binding on the commission for the entire term of the DSIM, and such DSIM shall be binding on the electric utility for the entire term of the DSIM, unless otherwise ordered or conditioned by the commission when approved.

(3) Application for discontinuation of a DSIM. The commission shall allow or require a DSIM to be discontinued or any component of a DSIM be discontinued only after providing the opportunity for a hearing in a general rate proceeding.

(A) The electric utility shall meet the filing requirements in 4 CSR 240-3.163(4).

(B) Any party to the general rate proceeding may oppose the discontinuation of a DSIM or any component of a DSIM.

(C) In addition to any other changes in business risk experienced by the electric utility, the commission may take into account any change in business risk to the electric utility resulting from discontinuance of the DSIM in setting the electric utility's allowed return on equity in any rate proceeding.

(D) If the utility requests that cost recovery between rate cases be discontinued, in its initial notice to customers regarding the general rate proceeding, the electric utility shall include a commission-approved description of why it believes the cost recovery component of the DSIM should be discontinued.

(4) Requirements for annual adjustments of DSIM rates, if the commission approves cost recovery between general rate proceedings. [IF IT IS DETERMINED THAT ANNUAL ADJUSTMENTS OF DSIM RATES ARE UNLAWFUL, THE ENTIRE SECTION (4) WILL BE DELETED FROM THIS RULE] When an electric utility files tariff sheets to adjust its DSIM rates between general rate proceedings, the staff shall examine and analyze the information filed by the electric utility in accordance with 4 CSR 240-3.163(8) and additional information obtained through discovery, if any, to determine if the proposed adjustment to the DSIM rates are in accordance with the provisions of this rule, section 393.1075, RSMo and the DSIM established, modified or continued in the

most recent general rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff sheets to adjust its DSIM rates. If the DSIM rate adjustment is in accordance with the provisions of this rule, section 393.1075, RSMo, and the DSIM established, modified or continued in the most recent general rate proceeding, the commission shall issue an interim rate adjustment order approving the tariff sheets and the DSIM rate adjustments shall take effect sixty (60) days after the tariff sheets were filed. If the DSIM rate adjustment is not in accordance with the provisions of this rule, section 393.1075, RSMo, or the DSIM established, modified or continued in the most recent rate proceeding, the commission shall reject the proposed tariff sheets within sixty (60) days of the electric utility's filing and may instead order implementation of an appropriate interim tariff sheets.

(A) An electric utility with a DSIM shall file one adjustment to its DSIM rates every twelve months.

(B) The electric utility shall be current on its submission of its Surveillance Monitoring Reports as required in section (9) and its annual reports as required in section (8).

(C) If the staff, Office of the Public Counsel (OPC) or other party which receives the information that the electric utility is required to submit in 4 CSR 240-3.163(6) and as ordered by the commission in a previous proceeding, believes that the information required to be submitted pursuant to 4 CSR 240-3.163(6) and the commission order establishing, modifying or continuing the DSIM has not been submitted in compliance with that rule, it shall notify the electric utility within ten (10) days of the electric utility's filing of an application or tariff sheets to adjust DSIM rates and identify the information required. The electric utility shall submit the information identified by the party, or shall notify the party that it believes the information submitted was in compliance with the requirements of 4 CSR 240-3.163(6), within ten (10) days of the request. A party who notifies the electric utility it believes the electric utility has not submitted all the information required by 4 CSR 240-3.163(6) and as ordered by the commission in a previous proceeding and receives notice from the electric utility that the electric utility believes it has submitted all required information may file a motion with the commission for an order directing the electric utility to produce that information, i. e., a motion to compel. While the commission is considering the motion to compel, the processing timeline for the adjustment to increase DSIM rates shall be suspended. If the commission then issues an order requiring the information be submitted, the time necessary for the information to be submitted shall further extend the processing timeline for the adjustment to increase DSIM rates. For good cause shown the commission may further suspend this timeline. Any delay in submitting sufficient information in compliance with 4 CSR 240-3.163(6) or a commission order in a previous proceeding in a request to decrease DSIM rates shall not alter the processing timeline.

(5) Duration of DSIM and requirement for general rate proceeding. Once a DSIM 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 or discontinuance of the DSIM in a general rate proceeding, although an electric utility may submit proposed tariff sheets to implement interim annual adjustments to its DSIM rates between general rate

proceedings. [IF IT IS DETERMINED THAT ANNUAL ADJUSTMENTS OF DSIM RATES ARE UNLAWFUL, THE WORDS “, although an electric utility may submit proposed tariff sheets to implement interim annual adjustments to its DSIM rates between general rate proceedings” WILL BE DELETED FROM THIS SECTION (5)]

(A) If the commission approves a DSIM for an electric utility, the electric utility must file a general rate proceeding 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 DSIM, assuming the maximum statutory suspension of the rates so filed.

(6) Disclosure on customers' bills. Regardless of whether or not the utility requests cost recovery between rate cases, any amounts charged under a DSIM approved by the commission, including any incentives allowed by the commission, shall be separately disclosed on each customer's bill. Proposed language regarding this disclosure shall be submitted to and approved by the commission before it appears on customers' bills.

(7) Evaluation, measurement and verification (EM&V) of the process and impact of demand-side programs. Each electric utility shall hire an independent contractor to perform and report EM&V of each commission-approved demand-side program in accordance with 4 CSR 240-20.094(3) or 4 CSR 240-20.094(4). The commission shall hire an independent contractor to audit and report on the work of each utility's independent EM&V contractor.

(A) Each utility's EM&V budget shall not exceed five percent (5%) of the utility's total budget for all approved demand-side program costs..

(B) The cost of the commission's EM&V contractor shall:

1. Not be a part of the utility's budget for demand-side programs; and
2. Be included in the Missouri Public Service Commission Assessment for each utility.

(C) EM&V draft reports for each approved demand-side program shall be delivered simultaneously to parties of the case in which the demand-side program was approved.

(D) EM&V final reports of each approved demand-side program shall:

1. Be completed by the utility's EM&V contractor on a schedule approved by the commission at the time of demand-side program approval; and
2. Be filed with the commission and delivered simultaneously to parties of the case in which the demand-side program was approved.

(E) Electric utility's EM&V contractors shall use an approved statewide technical reference manual when performing EM&V work.

(8) Demand-side programs annual reports. Each electric utility with approved demand-side programs shall file an annual report providing information by no later than 60 days after the end of each calendar year in the form and having the content provided for by 4 CSR 240-3.163(5), and serve a copy on each party to the case where the programs were last established, modifies or continued. Interested parties may file comments with the commission concerning the content of the utility's annual report within sixty (60) days of its filing.

(9) Submission of Surveillance Monitoring Reports. Each electric utility with an approved DSIM shall submit to staff, OPC and parties approved by the commission a Surveillance Monitoring Report in the form and having the content provided for by 4 CSR 240-3.163(6).

(A) The Surveillance Monitoring Report shall be submitted within fifteen (15) days of the electric utility's United States Securities and Exchange Commission (SEC) 10-Q or 10-K filing with the initial submission within fifteen (15) days of the electric utility's SEC 10-Q or 10-K filing following the effective date of the commission order establishing, modifying or continuing the DSIM.

(B) If the electric utility also has an approved environmental cost recovery mechanism or a fuel cost adjustment mechanism, the electric utility shall submit a single Surveillance Monitoring Report for all mechanisms.

(C) Upon a finding that a utility has knowingly or recklessly provided materially false or inaccurate information to the commission regarding the surveillance data prescribed in 4 CSR 240-3.163(6), after notice and an opportunity for a hearing, the commission may suspend a DSIM or order other appropriate remedies as provided by law.

(10) Tariffs and regulatory plans. The provisions of this rule shall not affect:

(A) Any adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to the effective date of this rule; and

(B) Any experimental regulatory plan that was approved by the commission and in effect prior to the effective date of this rule.

(11) Nothing in this rule shall preclude a complaint case from being filed, as provided by law.

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

(13) Rule review. The commission shall 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.