

Jason Kander

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY

Rule Number 4 CSR 240-20.092

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

Content Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

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Interagency mailing address Public Service Commission, 9th Fl., Gov. Ofc. Bldg., JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN

- ☐ Emergency rulemaking, include effective date
☒ Proposed Rulemaking
☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration
☐ Request for Non-Substantive Change
☐ Statement of Actual Cost
☐ Order of Rulemaking

Effective Date for the Order _____

☐ Statutory 30 days OR Specific date _____

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☐ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Small Business Regulatory
Fairness Board (DED) Stamp

SMALL BUSINESS
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

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Missouri Public Service Commission

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Director of Administration
NATELLE DIETRICH
Staff Director

December 27, 2016

Jason Kander
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-20.092 Definitions for Demand-Side Programs and Demand-Side Programs
Investment Mechanisms

Dear Secretary Kander,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed rulemaking lawfully submitted by the Missouri Public Service Commission.

The Public Service Commission has determined and hereby certifies that this proposed rulemaking will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017, RSMo 2000, that the proposed rulemaking does not constitute a taking of real property under relevant state and federal law, and that the proposed rulemaking conforms to the requirements of 1.310, RSMo, regarding user fees.

The Public Service Commission has determined and hereby also certifies that this proposed rulemaking complies with the small business requirements of 1.310, RSMo, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo, by exempting any small business consisting of fewer than fifty full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Mr. Jason Kander
December 27, 2016
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Statutory Authority: section 393.1075.11, RSMo Supp. 2010.

If there are any questions regarding the content of this proposed rulemaking, please contact:

Morris L. Woodruff, Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-2849
morris.woodruff@psc.mo.gov

A handwritten signature in black ink, appearing to read "Morris L. Woodruff", with a stylized flourish at the end.

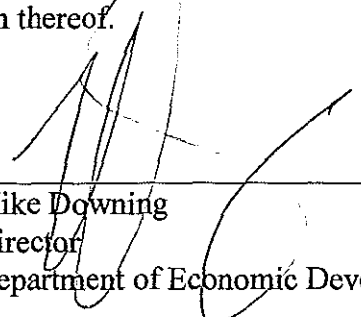
Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

**AFFIDAVIT
PUBLIC COST**

STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Mike Downing, Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed rule, 4 CSR 240-20.092, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

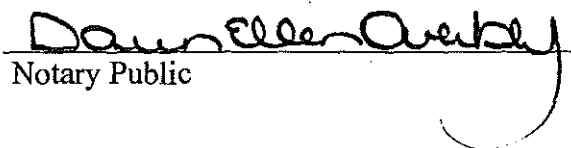


Mike Downing
Director
Department of Economic Development

Subscribed and sworn to before me this 7th day of Nov, 2016, I am commissioned as a notary public within the County of COLE, State of Missouri, and my commission expires on Dec. 13, 2019



DAWN ELLEN OVERBEY
My Commission Expires
December 13, 2019
Moniteau County
Commission #15458865



Notary Public

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ADMINISTRATIVE RULES

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

Proposed Rule

COPY

4 CSR 240-20.092 Definitions for Demand-Side Programs and Demand-Side Programs Investment Mechanisms

PURPOSE: This rule incorporates definitions for all terms used in 4 CSR 240-20.093 Demand-Side Programs Investment Mechanisms (DSIM) and 4 CSR 240-20.094 Demand-Side Programs.

- (1) As used in 4 CSR 240-20.093 and 4 CSR 240-20.094, the following terms mean:
- (A) Annual report means a report of information concerning a utility's demand-side programs having the content described in 4 CSR 240.093(8);
 - (B) 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 Demand-Side Programs;
 - (C) 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;
 - (D) Baseline demand forecast means a reference forecast of summer or winter peak demand at the customer 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;
 - (E) Baseline energy forecast means a reference forecast of energy at the customer 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) Cost recovery amount means the amount approved by the commission in a utility's filing for demand-side program approval or a 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;
 - (G) Cost recovery component of a DSIM means the methodology approved by the commission in a utility's filing for demand-side program approval to allow the utility to receive recovery of costs of approved demand-side programs with interest;
 - (H) Customer class means major customer rate groupings such as residential, small general service, large general service, and large power service;
 - (I) Deemed savings means the measure-level annual energy savings and/or demand savings documented or calculated in the approved Technical Resource Manual or Technical Reference Manual (TRM), multiplied by the documented measure count. The demand-side program

JOINT COMMITTEE ON

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deemed savings is the sum of the deemed savings for all measures installed in a demand-side program. The demand-side portfolio deemed savings is the sum of all demand-side program deemed savings;

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

(K) Demand response means measures that decrease peak demand or shift demand to off-peak periods;

(L) Demand-side portfolio means all of a utility's demand-side programs at a defined point in time;

(M) 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 electric meter, including, but not limited to, energy efficiency measures, load management, demand response, interruptible or curtailable load, combined heat and power, and distributed generation;

(N) 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: cost recovery component of a DSIM, throughput disincentive component of a DSIM, and earning opportunity of a DSIM;

(O) Demand savings target means the annual demand savings level approved by the commission at the time of each demand-side portfolio's approval, or adjusted based on an approved mechanism. Demand savings targets are the baseline for determining the utility's demand-side portfolio's demand savings performance levels for the earnings opportunity component of a DSIM;

(P) DSIM amount means the sum of the cost recovery amount, throughput disincentive amount and earnings opportunity amount;

(Q) DSIM rate means the rate used to determine the charge on customers' bills for the portion of the DSIM amount assigned by the commission to a rate class;

(R) Earnings opportunity amount means the amount approved by the commission in a utility's filing for demand-side program approval or a rate adjustment case to provide the utility with an earnings opportunity amount based on the approved earnings opportunity component of a DSIM;

(S) Earnings opportunity component of a DSIM means the methodology approved by the commission in a utility's filing for demand-side program approval to allow the utility to receive an earnings opportunity. Any earnings opportunity component of a DSIM shall be implemented on a retrospective basis, and all energy and demand savings used to determine a DSIM earnings opportunity amount shall be verified and documented through EM&V reports;

(T) Economic potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from customer adoption of all cost-effective measures, regardless of customer preferences;

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

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

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

(X) Energy savings target means the annual energy savings level approved by the commission at the time of each demand-side portfolio's approval, or adjusted by an approved mechanism.

Energy savings targets are the baseline for determining the utility's demand-side portfolio's energy savings performance levels for the earnings opportunity component of a DSIM;

(Y) 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 annual energy and demand savings, benefits, cost effectiveness, and other effects from demand-side programs;

(Z) Filing for demand-side programs 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;

(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;

(BB) 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;

(CC) Market potential study means a quantitative analysis of the amount of energy and demand savings that may exist, is cost-effective, and could be realized through the implementation of energy efficiency programs and policies;

(DD) Market transformation means the strategic process of intervening in a market to create lasting change in market behavior by removing identified barriers or exploiting opportunities to accelerate the adoption of all cost-effective energy efficiency as a matter of standard practice;

(EE) Maximum achievable potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from expected program participation and ideal implementation conditions. Maximum achievable potential establishes a maximum target for demand-side savings that a utility can expect to achieve through its demand-side programs and involves incentives that represent a very high portion of total programs costs and very short customer payback periods. Maximum achievable potential is considered the hypothetical upper-boundary of achievable demand-side savings potential, because it presumes conditions that are ideal and not typically observed;

(FF) Measure means any device, technology, behavioral response mechanism, or operating procedure that makes it possible to deliver an adequate level and quality of energy service while—

1. Using less energy than would otherwise be required; or
2. Altering the time pattern of electricity so as to require less generating capacity or to allow the electric power to be supplied by more fuel-efficient units;

(GG) MEEIA means the Missouri Energy Efficiency Investment Act, Section 393.1075, RSMo.

(HH) Net shared benefits means the program benefits measured and documented through EM&V reports or a technical resource manual for demand-side programs, less the sum of the programs' costs including design, administration, delivery, end-use measures, incentive payments to customers, EM&V, utility market potential studies, and technical resource manual;

(II) Non Energy Benefits means:

1. Direct benefits to participants in utility demand side programs, including but not limited to, increased property values, increased productivity, decreased water and sewer bills,

reduced operations and maintenance costs, improved tenant satisfaction, and increases to the comfort, health, and safety of participants and their families;

2. Direct benefits to utilities, including but not limited to, reduced arrearage carrying costs, reduced customer collection calls/notices, reduced termination/reconnection costs, and reduced bad debt write-offs; or

3. Indirect benefits to society at large, including but not limited to, job creation, economic development, energy security, public safety, reduced emissions and emission related health care costs, and other environmental benefits.

4. Non Energy Benefits may be included in cost-effectiveness tests unless they cannot be calculated with a reasonable degree of confidence;

(JJ) Non-participant test (sometimes referred to as the ratepayer impact test or RIM test) is a measure of the difference between the change in total revenues paid to a utility and the change in total cost incurred by the utility as a result of the implementation of demand-side programs. The benefits are the avoided cost as a result of implementation. The costs consist of incentives paid to participants, other costs incurred by the utility, and the loss in revenue as a result of diminished consumption. Utility costs include the costs to administer, deliver, and evaluate each demand-side program;

(KK) Participant test means a test of the cost-effectiveness of demand-side programs that measures the economics of a demand-side program from the perspective of the customers participating in the program;

(LL) 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;

(MM) Probable environmental compliance cost means the likely, expected, or anticipated 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 reasonably expected to be incurred by the utility and which would result in environmental compliance costs that could have a significant impact on utility rates. In estimating its avoided probable environmental compliance costs, the utility shall consider factors including, but not limited to, reductions in risks, liabilities, and other costs under the Clean Air Act, the Clean Water Act, the Endangered Species Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, Clean Power Plan, and related federal and state laws and regulation;

(NN) Program pilot means a demand-side program designed to operate on a limited basis for evaluation purposes before full implementation;

(OO) Realistic achievable potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from expected program participation and realistic implementation conditions. Realistic achievable potential establishes a realistic target for demand-side savings that a utility can expect to achieve through its demand-side programs and involves incentives that represent a moderate portion of total program costs and longer customer payback periods when compared to those associated with maximum achievable potential;

(PP) Societal cost test means the total resource cost test with the addition of societal benefits (externalities such as, but not limited to, environmental or economic benefits) to the total benefits of the total resource cost test;

(QQ) 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;

(RR) Statewide technical reference manual or statewide TRM means a document developed by the state-wide collaborative and approved by the commission that is used by all electric utilities to quantify energy savings and demand savings attributable to energy efficiency and demand response;

(SS) Technical potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from a theoretical construct that assumes all feasible measures are adopted by customers of the utility regardless of cost or customer preference;

(TT) Technical resource manual, technical reference manual or TRM means a document used to assess energy savings and demand savings attributable to energy efficiency and demand response programs within an electric utility's service territory;

(UU) Throughput disincentive means the electric utility's lost margin revenues that result from decreased retail sales volumes due to its demand-side programs;

(VV) Throughput disincentive amount means the amount approved by the commission in a utility's filing for demand-side program approval or a DSIM rate adjustment case to provide the utility with recovery of throughput disincentive based on the approved throughput disincentive component of a DSIM;

(WW) Throughput disincentive component of a DSIM means the methodology approved by the commission in a utility's filing for a demand-side program approval to allow the utility to receive recovery of throughput disincentive with interest;

(XX) Total resource cost test or TRC means a test that compares the sum of avoided costs to the sum of all incremental costs of end use measures that are implemented due to the program, as defined by the commission in rules. Benefits include the avoided costs, avoided probable environmental compliance costs, other avoided resource benefits (e.g., oil, natural gas, water), and other benefits that accrue to Missourians, including non-energy benefits as defined by the commission. Costs include 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. In estimating its avoided probable environmental compliance costs and non-energy benefits, the utility shall consider factors including, but not limited to: reductions in emissions liability under the Clean Air Act; reduction in transmission and distribution costs; reductions in the utility's load factor or peak load; reductions in fuel costs, health and safety improvements, etc; and

(YY) Utility cost test means a test that compares the sum of avoided utility costs to the sum of all utility costs.

AUTHORITY: section 393.1075.11, RSMo Supp. 2010. 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 TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before April 27, 2017, and should include reference to Commission Case No. EX-2016-0334. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for May 4, 2017, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

Small Business Regulator Fairness Board

Small Business Impact Statement

Date: June 8, 2016

Rule Number: 4 CSR 240-20.092

Name of Agency Preparing Statement: Missouri Public Service Commission

Name of Person Preparing Statement: Natelle Dietrich

Phone Number: 573-751-7427

Email: natelle.dietrich@psc.mo.gov

Name of Person Approving Statement: Natelle Dietrich

Please describe the methods your agency considered or used to reduce the impact on small businesses *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

The Commission held multiple workshops and received several rounds of informal comments to address concerns raised by stakeholders.

Please explain how your agency has involved small businesses in the development of the proposed rule.

Workshops were open to all interested stakeholders. Representatives of multi-family housing dwellings, industrial users and consumer groups participated.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

None

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

Since this rule only contains definitions of terms contained in 4 CSR 240-20.093 and 4 CSR 240-20.094, no adverse impact is expected.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

None identified.

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Investor-owned electric utilities (IOUs), businesses that participate in energy efficiency and demand-side programs offered by the IOUs pursuant to MEEIA, industrial consumers.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes___ No_X__

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.