

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

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 393.1075.11 and 393.1075.15 RSMo 2016, the commission amends a rule as follows:

4 CSR 240-20.093 is amended

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2017 (42 MoReg 162-168). Those sections with changes are reprinted here. The proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended April 27, 2017, and the commission held a public hearing on the proposed amendment on May 4, 2016. The commission received timely written comments from The Office of the Public Counsel; Union Electric Company, d/b/a Ameren Missouri; Kansas City Power & Light Company (KCP&L) and KCP&L Greater Missouri Operations Company (GMO); Renew Missouri; the Missouri Department of Economic Development - Division of Energy; the Natural Resources Defense Council (NRDC); Walmart Stores, Inc.; the National Housing Trust; the Midwest Energy Efficiency Alliance; and the Staff of the Commission. In addition, the following people offered comments at the hearing: Martin Hyman and Barbara Meisenheimer on behalf of the Division of Energy; Andrew Linhares on behalf of Renew Missouri; Phil Fracica on behalf of Energy Efficiency for All; David Woodsmall on behalf of Walmart; Tim Opitz and Geoff Marke on behalf of the Public Counsel; Lewis Mills on behalf of the Missouri Industrial Energy Consumers (MIEC); Jim Fischer and Tim Nelson on behalf of KCP&L and GMO; Paula Johnson and Bill Davis on behalf of Ameren Missouri; and Natelle Dietrich, John Rogers, Robert Berlin, and Brad Fortson on behalf of staff. Many comments and suggested changes were offered. The commission will address those comments as they pertain to the various provisions of the rule.

COMMENT #1: Staff recommends Demand-Side Program in section 20.093(1) be made plural to match the wording of 4 CSR 240-20.092.

RESPONSE AND EXPLANATION OF CHANGE: Staff is correct and the change will be adopted. The same change will be made in section 20.093(2).



COMMENT #2: Staff recommends adding words to strengthen the requirement in subsection 20.093(2)(A) that supporting worksheets be submitted with models and spreadsheets intact.

RESPONSE AND EXPLANATION OF CHANGE: Staff's proposal is reasonable and will be adopted.

COMMENT #3: Paragraph 20.093(2)(A)3 describes the items that a utility must file as part of its application for approval of a Demand-Side Programs Investment Mechanism (DSIM). Ameren Missouri suggests the requirement to submit a "complete" description of workings of the proposed DSIM be replaced with a "reasonably detailed" description, contending that, in a literal sense, a "complete" description can never be attained. Ameren Missouri believes "reasonably detailed" is a more realistic requirement.

RESPONSE AND EXPLANATION OF CHANGE: The commission understands Ameren Missouri's concern, but the requirement of a "complete" description should not be weakened to the extent that a utility would be able to hide any aspect of its proposed DSIM. The commission will alter the paragraph to require a "complete, reasonably detailed" description.

COMMENT #4: Staff recommends the addition of "net benefits" to paragraph 20.093(2)(A)4 to clarify the requirement that a utility must provide an estimate of the effect of its DSIM on customer bills.

RESPONSE AND EXPLANATION OF CHANGE: Staff's proposal is a reasonable clarification of the paragraph's requirements and it will be adopted.

COMMENT #5: Paragraph 20.093(2)(A)5 requires a utility applying to establish, continue, or modify a DSIM to estimate the effects of the "earnings opportunity" component of the DSIM on earnings and key credit metrics. Ameren Missouri explains that all aspects of the DSIM, not just the "earnings opportunity" component, have an impact on earnings and key credit metrics. It suggests the required explanation be broadened to all components of DSIM by removing the words "earnings opportunity component of" from the paragraph.

RESPONSE AND EXPLANATION OF CHANGE: Ameren Missouri's proposal is a reasonable modification of the paragraph's requirements and it will be adopted.

COMMENT #6: Paragraph 20.093(2)(A)6 requires the utility applying to establish, continue, or modify a DSIM to provide a "complete" explanation of

all costs to be recovered under the proposed DSIM. As in comment #3, Ameren Missouri would replace “complete” with “reasonably detailed.”

RESPONSE AND EXPLANATION OF CHANGE: As explained in its response to comment #3, the commission will alter the paragraph to require a “complete, reasonably detailed” description.

COMMENT #7: Paragraph 20.093(2)(A)7 requires a “complete” explanation of any change in business risk resulting from implementation of the earnings opportunity component of the DSIM. As in comment #3, Ameren Missouri would replace “complete” with “reasonably detailed.” And, as in comment #5, Ameren Missouri would remove “earnings opportunity component” to broaden the explanation to include the effect of all aspects of the DSIM.

RESPONSE AND EXPLANATION OF CHANGE: As explained in its response to comment #3, the commission will alter the paragraph to require a “complete, reasonably detailed” description. And as explained in its response to comment #5, the commission will adopt the change proposed by Ameren Missouri.

COMMENT #8: Paragraph 20.093(2)(A)8 requires a proposal for how the commission can determine whether any earning opportunity component of a proposed DSIM is aligned with efforts for customer energy efficiency. Staff proposes to broaden the requirement by requiring consideration of the throughput disincentive component of the DSIM along with the earnings opportunity component. As in comment #5, Ameren Missouri would further broaden the requirement by making it apply to all aspects of the DSIM.

RESPONSE AND EXPLANATION OF CHANGE: As in comment #5, the commission finds that requiring an explanation about all aspects of the DSIM is appropriate. The commission will adopt the change proposed by Ameren Missouri, which will subsume the change proposed by Staff.

COMMENT #9: Staff proposes to add “and” to the end of paragraph 20.093(2)(A)9 to indicate all paragraphs in the sequence are required.

RESPONSE AND EXPLANATION OF CHANGE: The commission will make the modification proposed by staff.

COMMENT #10: Paragraph 20.093(2)(A)10 requires a utility proposing to adjust its DSIM amount between general rate proceedings to offer specified explanations. Staff would replace “approved new” with “established” when describing modified or discontinued demand-side programs. As in comment #3, Ameren Missouri would replace “complete” with “reasonably detailed.”

RESPONSE AND EXPLANATION OF CHANGE: The commission will adopt the change proposed by staff as an appropriate clarification of the paragraph. As explained in the responses to comments #3, the commission will add “reasonably detailed” to the “complete” requirement.

COMMENT #10: Among other things, subsection 20.093(2)(B) requires a utility to provide certain workpapers with all formulas intact. Staff would require that links also be provided intact.

RESPONSE AND EXPLANATION OF CHANGE: The commission will adopt the change proposed by staff.

COMMENT #11: Paragraph 20.093(2)(B)3 includes a requirement that the utility seeking to modify its DSIM provide a “complete” explanation of an change in business risk resulting from the modification. As in comments #3 and #5, Ameren Missouri proposes to replace “complete” with “reasonably detailed” and delete the limitation to “earnings opportunity component” to require explanation of the resulting impact of the modification of the entire DSIM.

RESPONSE AND EXPLANATION OF CHANGE: As explained in its responses to comments #3 and #5, the commission will add reasonably detailed to the complete requirement, and will delete the limiting “earnings opportunity component.”

COMMENT #12: Subsection 20.093(2)(C) provides that any party to the utility’s application for approval of its demand-side program may support or oppose any aspect of that application, or may propose an alternative DSIM for the commission’s consideration. The last sentence of the subsection recognizes that the commission has authority to approve or reject any establishment, continuation, or modification of a DSIM. Staff proposes to modify that part of the subsection to emphasize that any new DSIM, or changes to an existing DSIM must be approved by the commission, but must also be acceptable to the utility. Ameren Missouri supports that clarification. The NRDC commented on the same provision of the subsection, advising the commission to emphasize that it has “sole” authority to approve, accept, or reject and establishment, continuation, or modification of a DSIM. Ameren Missouri opposed the change proposed by the NRDC.

RESPONSE AND EXPLANATION OF CHANGE: The MEEIA statute, section 393.1075, RSMo 2016, provides that an electric utility may choose whether to participate in a MEEIA program; it is not required to do so. But, if the utility chooses to participate, the terms of its participation must be approved by the commission. The last sentence of this subsection as published in the proposed rule, and as it exists in the current rule, inadvertently muddles that principle by implying that both the commission

and the utility retain authority to accept or reject a DSIM. Both staff and the NRDC attempt to clarify that the commission has sole authority to approve or reject all aspects of the utility's MEEIA program, while recognizing that the utility retains the ability to walk away from the program if it is dissatisfied with the commission's decision.

That is an interesting principle, but it is not a principle that needs to be addressed in this subsection. The purpose of the subsection is to establish that other parties may support, oppose, or offer alternatives to the utility's proposal. The last sentence strays from that purpose by unnecessarily reasserting the commission's authority to approve or reject the utility's DSIM. The commission's authority to approve or reject any new or modified DSIM is established by statute and does not need to be restated in this subsection. The final sentence of this subsection is unnecessary and will be deleted.

COMMENT #13: Subsection 20-093(2)(D) indicates the commission shall approve a DSIM if it finds the electric utility's demand-side savings programs are expected to result in energy and demand savings, and are expected to benefit all customers, even those that do not participate in the programs. Renew Missouri asks the commission to change the wording of this subsection to emphasize that such programs should be designed to achieve "all cost effective energy and demand savings." Further, Renew Missouri wants to emphasize that a program may be beneficial for a customer over the long-term, even if it does not immediately reduce that customer's rates.

RESPONSE: The stated goal of the MEEIA statute is to achieve all cost-effective demand-side savings. But that does not mean the commission may only approve a MEEIA filing if it results in all cost-effective energy and demand savings as Renew Missouri would write into the rule. It must be remembered that utility participation in MEEIA is voluntary. Renew Missouri's proposed changes would constrain the commission's ability to approve an appropriate set of demand-side programs. Renew Missouri's proposed changes will not be adopted.

COMMENT #14: Subsection 20.093(2)(E) provides that the commission shall consider changes in the utility's business risk resulting from having a DSIM in setting the utility's allowed return on equity in a general rate proceeding. Ameren Missouri contends the wording of the subsection should not presume that there are changes in the utility's business risk resulting from the presence of a DSIM. It would add a "if any" clause to the rule to remove any such presumption.

RESPONSE: The language of the current rule does not pre-determine or presume that a DSIM has any effect on a utility's business risk. Rather it says the commission shall consider such changes when setting the utility's rates. If, as a matter of fact, there are no changes in the utility's business risk, the commission will so find and there will be no impact on the utility's

rates. The change proposed by Ameren Missouri is unnecessary and will not be adopted.

COMMENT #15: Staff advises the commission to modify subsection 20.093(2)(F) by adding language to improve the readability of the first sentence of the subsection. The proposed change has no substantive effect on the rule.

RESPONSE AND EXPLANATION OF CHANGE: The Commission will adopt the change proposed by staff.

COMMENT #16: Subsection 20.093(2)(G) describes the costs that may be recovered by a utility through the cost recovery component of a DSIM. The current rule indicates the cost of a utility market potential study may be recovered through the DSIM. Public Counsel contends the utility's cost to produce a market potential study should not be recovered through the DSIM. Rather, because such studies are required for purposes of the integrated resource planning (IRP) process, they should be recovered by the utility through the general ratemaking process where those costs can be shared by all the utility's customers, including those that have opted-out of MEEIA.

RESPONSE AND EXPLANATION OF CHANGE: Public Counsel is correct, the cost of producing a market potential study should not be presumed to be recoverable through a DSIM as a MEEIA-related cost. The commission will remove it from the rule. That does not mean that in a particular case a utility is precluded from showing that the cost of producing a market potential study should be attributed to MEEIA demand-side programs and recovered through its DSIM. But the appropriateness of such recovery will not be presumed.

COMMENT #17: Subsection 20.093(2)(H) concerns the throughput disincentive component of a DSIM. Staff proposes to modify the subsection to clarify that a throughput disincentive component can be based on energy savings, or energy and demand savings, but not on demand savings alone. The Midwest Energy Efficiency Alliance and Renew Missouri propose that the subsection should explicitly require an annual true-up of the throughput disincentive through the EM&V process. KCP&L and GMO propose alternative language designed to recognize the use of a statewide TRM. Ameren Missouri proposes language to explicitly allow for the use of a commission-approved TRM in place of EM&V.

RESPONSE AND EXPLANATION OF CHANGE: Staff's proposed changes clarify the rule and will be adopted. The changes suggested by the Midwest Energy Efficiency Alliance and Renew Missouri, as well as the suggestions offered by Ameren Missouri and KCP&L and GMO, would unnecessarily limit

the commission's discretion in considering a particular proposed DSIM. The commission will not adopt those changes.

COMMENT #18: Staff recommends that the reference in Paragraph 20.093(2)(H)1 to Chapter 20.094, Demand-Side Portfolio be changed to Demand-Side Programs to be consistent with the title of Chapter 20.094.

RESPONSE AND EXPLANATION OF CHANGE: Staff's proposed change is appropriate and will be adopted.

COMMENT #19: Subsection 20.093(2)(I) concerns the earning opportunity component of a DSIM. Ameren Missouri would modify the language of the subsection to acknowledge that the earnings opportunity component may be based on the entirety of a DSIM portfolio rather than on individual programs within a portfolio.

RESPONSE: The commission does not believe the changes proposed by Ameren Missouri are appropriate. The commission must be able to evaluate individual programs to determine the utility's overall earnings opportunity. That is what the proposed rule permits.

COMMENT #20: Staff proposes to clarify paragraph 20.093(2)(I)1 by substituting a full regulation citation for the word "section".

RESPONSE AND EXPLANATION OF CHANGE: The Commission will adopt the change proposed by Staff.

COMMENT #21: Ameren Missouri proposes a change in paragraph 20.093(2)(I)2 to clarify that the commission is to approve any earnings opportunity component of a DSIM at the same time it approves the utility's demand-side programs.

RESPONSE AND EXPLANATION OF CHANGE: Ameren Missouri's change helps to clarify the requirements of the rule and will be adopted.

COMMENT #22: Ameren Missouri proposes to delete paragraph 20.093(2)(I)3. That paragraph requires that any earnings opportunity component of a DSIM be implemented retrospectively and all energy and demand savings used to determine a DSIM earnings opportunity amount must be measured and verified through EM&V. Ameren Missouri would delete this provision to allow the Commission the ability to use deemed savings described in a TRM to avoid the necessity of verification through EM&V, and to allow the Commission to determine whether prospective or retrospective implementation is appropriate in the particular circumstances of each case.

RESPONSE: The commission believes that verification through EM&V is vitally important to protect ratepayers. The Commission will not adopt the change proposed by Ameren Missouri.

COMMENT #23: Staff proposes minor wording changes to clarify subsection 20.093(2)(J). Ameren Missouri also proposes one of the changes proposed by Staff.

RESPONSE AND EXPLANATION OF CHANGE: The commission will adopt the changes proposed by Ameren Missouri and Staff.

COMMENT #24: Among other things, subsection 20.093(3)(A) requires a utility to provide certain workpapers with all formulas intact. Staff would add that links also be provided intact.

RESPONSE AND EXPLANATION OF CHANGE: The commission will adopt the change proposed by staff.

COMMENT #25: Ameren Missouri proposes changes to paragraphs 20.093(3)(A)2-4. It suggests, as it did in COMMENT #3, that the requirement to submit a "complete" description of workings of the proposed DSIM be replaced with a "reasonably detailed" description, contending that, in a literal sense, a "complete" description can never be attained. Ameren Missouri believes "reasonably detailed" is a more realistic requirement. Ameren Missouri also suggests, as it did in COMMENT #5, that paragraph 4 be broadened to apply to the entire DSIM rather than just the earnings opportunity element of the DSIM.

RESPONSE AND EXPLANATION OF CHANGE: The commission understands Ameren Missouri's concern, but the requirement of a "complete" description should not be weakened to the extent that a utility would be able to hide any aspect of its proposed DSIM. The commission will alter the paragraph to require a "complete, reasonably detailed" description. Ameren Missouri's proposed modification of paragraph 4 to broaden the requirement to report on the effect of changes in business risk will be adopted. Ameren Missouri's proposal to add "if any" to the last sentence is unnecessary and will not be adopted.

COMMENT #26: Ameren Missouri proposes to simplify the language of section 20.093(4), which sets requirements for adjustments for DSIM's by simply referring to adjustment of the entire DSIM rather than referring to each of its cost recovery, throughput disincentive, and earnings opportunity elements.

RESPONSE AND EXPLANATION OF CHANGE: Ameren Missouri's proposal is a simplification of the language of the section that does not

change the meaning of the regulation. The purpose of the section is to require that adjustments be made no less than annually. The rest of the section that says that each of the DSIM elements may be adjusted is unnecessary and will be deleted. Additional changes to this section are described in COMMENT #29.

COMMENT #27: Among other things, subsection 20.093(4)(A) requires a utility to provide certain workpapers with all formulas intact. Staff would add that links also be provided intact.

RESPONSE AND EXPLANATION OF CHANGE: The Commission will adopt the change proposed by staff.

COMMENT #28: Staff proposes a change to paragraph 20.093(4)(A)2. That subsection requires a utility to file information to support its tariff to adjust its DSIM. Paragraph 2 requires the utility to file information supporting its "proposed adjustments or refunds by rate class." Staff would add the words "positive or negative" to modify proposed adjustments, and would remove the word "refunds" because that is not an accurate description of the adjustment.

RESPONSE AND EXPLANATION OF CHANGE: Staff's proposed modifications are appropriate and will be adopted.

COMMENT #29: Ameren Missouri recommends changes to subsection 20.093(4)(B). This subsection describes the process the commission will use to review a tariff filed by a utility seeking to adjust its DSIM rates. The proposed rule requires the commission to either approve, or reject the tariff filing within 60 days of its filing. Ameren Missouri proposes that language be added to the rule to allow the commission to either approve the tariff change, or to simply allow it to go into effect by operation of law on the tariff's effective date if it is not rejected.

RESPONSE AND EXPLANATION OF CHANGE: The commission generally prefers to issue a ruling to either approve or reject a DSIM tariff. However, the procedure described by Ameren Missouri is allowed and the commission should have the discretion to follow that procedure if, in some circumstance, it becomes necessary or appropriate. There is no reason to impose an additional requirement on the commission through this regulation. The commission will adopt the changes proposed by Ameren Missouri.

COMMENT #30: Ameren Missouri suggests subsection 20.093(4)(C) be deleted as duplicative of subsection 20.093(2)(J).

RESPONSE AND EXPLANATION OF CHANGE: Subsection 20.093(2)(J) requires a DSIM to include a provision requiring the filing of annual

adjustments. Subsection 20.093(4)(C) requires an electric utility to file such an adjustment at least once a year. They accomplish the same purpose, but are not duplicative. However, the requirement of subsection 20.093(4)(C) is duplicative of the passively-worded requirement found in section 20.093(4). Subsection 20.093(4)(C) will be deleted and its words moved to section 20.093(4) to replace that passive language. The remaining subsections will be renumbered.

COMMENT #31: Staff proposes some wording changes to clarify subsection 20.093(4)(D).

RESPONSE AND EXPLANATION OF CHANGE: The changes proposed by staff clarify the meaning of the subsection without changing its meaning. The commission will adopt those changes.

COMMENT #32: Staff proposes a wording change to clarify subsection 20.093(4)(F). The proposed change will better define when staff, public counsel, or other party may notify the electric utility that it has not met the filing requirements of this rule.

RESPONSE AND EXPLANATION OF CHANGE: The changes proposed by staff are appropriate and will be adopted.

COMMENT #33: Section 20.093(5) indicates a utility may request the use of deferral accounting to defer the financial impacts resulting from MEEIA for recovery in a future general rate case. Staff proposes multiple wording changes to clarify the meaning of the section.

RESPONSE AND EXPLANATION OF CHANGE: The changes proposed by staff are appropriate and will be adopted.

COMMENT #34: Subsection 20.093(5)(A) concerns the duration of an approved DSIM. Ameren Missouri and KCP&L and GMO are concerned that while the regulation allows the utility to fully recover all DSIM amounts, it also suggests the commission can modify or discontinue the DSIM. The utilities are concerned that this would imply that they might not be allowed to fully recover the DSIM amount, creating a financial risk that would discourage implementation of demand-side programs. They also point out that utility compliance with MEEIA is voluntary and contend the approved DSIM cannot be modified without their approval.

The utilities are also concerned that the last two sentences of the subsection allow parties to the case in which to DSIM was approved to proposed modifications to the DSIM. They contend this contradicts subsection 20.093(2)(K), which states that approved earnings opportunity components of DSIMs are binding on the commission and the utility for the

entire term of the DSIM unless otherwise ordered or conditioned by the commission when approved.

RESPONSE AND EXPLANATION OF CHANGE: The concerns expressed by Ameren Missouri and KCP&L and GMO are understandable. If they are not assured of their ability to recover all DSIM amounts, they will not be willing to implement costly demand-side programs. Similarly, since participation in MEEIA is voluntary, the approved DSIM, to which the utility has given its assent, cannot be changed without the utility's assent. The commission will modify the language of this subsection to address these concerns.

The Commission also notes that the sentence in this subsection that requires the electric utility to submit proposed tariff sheets to implement interim adjustments to its DSIM rates is merely a restatement of the requirements of subsection 20.093(4)(A). As such it will be deleted.

The commission further notes that subsection 20.093(5)(B) is being deleted from the rule. That means subsection 20.093(5)(A) is now the only subsection of section 20.093(5). Subsection (A) is more properly denominated as its own section, which will be section (6). The remaining sections of the rule will be renumbered accordingly.

COMMENT #35: Section 20.093(7) concerns evaluation, measurement, and verification (EM&V) of demand-side programs. Public Counsel proposes a change to that section to ensure the independence of the independent EM&V contractor engaged by the utility. Public Counsel suggests the same limiting language on staff that the proposed rule applies to the contract auditor engaged by staff be applied to the utility.

RESPONSE AND EXPLANATION OF CHANGE: The independent EM&V contractor engaged by the utility should be as independent as the EM&V contractor engaged by staff. The commission will adopt the change proposed by Public Counsel.

COMMENT #36: Public Counsel proposes a change in subsection 20.093(7)(A), which is a subsection in the existing rule that the commission has not proposed to amend. That subsection limits a utility's EM&V budget to not more than five percent of the utility's total budget for all approved demand-side program costs. Public Counsel argues that percentage should be reduced to two and one half percent if the utility has deployed advanced metering infrastructure (AMI).

RESPONSE: Public Counsel contends that when a utility has deployed AMI it will have greater knowledge of realized energy and demand savings and should be able to spend less on EM&V. Public Counsel did not, however, quantify the amount of savings that could be realized. The commission has no way of knowing whether the two and a half percent budget limitation

proposed by Public Counsel is reasonable. As AMI technology becomes more prevalent the commission will have a stronger basis to determine whether any budget adjustment is appropriate. The commission will not adopt the change proposed by Public Counsel in this rulemaking.

COMMENT #37: Among other things, subsection 20.093(7)(D)1 requires a utility to provide certain workpapers with all formulas intact. Staff would add that links also be provided intact.

RESPONSE AND EXPLANATION OF CHANGE: The Commission will adopt the change proposed by staff.

COMMENT #38: Subparagraph 20.093(7)(D)1.B requires that a EM&V final report include an impact evaluation of demand and energy savings. The Midwest Energy Efficiency Alliance suggests non-energy impacts, such as reduced water consumption, job creation, reduced customer disconnections, etc. should also be included in the EM&V reports.

RESPONSE: Non-energy impacts may be considered under the societal cost test, which is to be included in the EM&V final report pursuant to part 20.093(7)(D)1.B.(II). There is no need to amend the rule to give such impacts additional consideration. The commission will not adopt the change proposed by the Midwest Energy Efficiency Alliance.

COMMENT #39: Part 20.093(7)(D)1.B(I) provides that the contents of the impact evaluation to be included in an EM&V final report is to include an evaluation of the lifetime and annual gross and net demand savings and energy saving achieved under each demand-side program. KCP&L and GMO, as well as Ameren Missouri, urge the commission to remove the word "lifetime" from that part as lifetime savings have little value to the EM&V analysis and are not currently calculated by the utility or the EM&V contractor.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will adopt the proposed change.

COMMENT #40: Part 20.093(7)(D)1.B(III) requires the EM&V report to include a determination of the benefits achieved for each demand-side program and portfolio using the utility cost test (UCT) methodology. Staff proposes minor changes to make utility cost test lower case, and change "benefits" to "net benefits". Public Counsel contends the TRC, not the UCT is the proper test to be used. KCP&L and GMO argue the entire part should be deleted. The Division of Energy proposes changes that would indicate EM&V reports do not need to contain an estimate of UCT-based benefits for demand-side programs that are not subject to cost-effectiveness testing.

RESPONSE AND EXPLANATION OF CHANGE: The commission believes that use of the UCT is appropriate for the purpose of this part. The Division of Energy's concerns about the estimation of benefits for programs that are not subject to cost-effectiveness testing are well based. The Commission will make the changes proposed by the Division of Energy, and will also make the clarifying changes proposed by staff.

COMMENT #41: Paragraph 20.093(7)(E)1 requires an electric utility's EM&V contractor to include specific methodology for performing EM&V work. Public Counsel would add a requirement to include net-to-gross components limited solely to free ridership and spillover. Public Counsel believes that doing so will add clarity as to what specific net-to-gross components an EM&V contractor should be allowed to examine.

RESPONSE: The commission does not believe that its rules should narrowly specify what an EM&V contractor should be allowed to examine. The commission will not adopt the change proposed by Public Counsel.

COMMENT #42: Paragraph 20.093(7)(E)2 would require EM&V contractors to utilize the most current statewide TRM when that document has been approved by the commission. Staff would change that paragraph to allow the utility to use either its own approved TRM or the statewide TRM. Ameren Missouri proposes slightly different language to accomplish the same change recommended by staff. Public Counsel suggests the entire paragraph be deleted to avoid the use of deemed savings values. KCP&L would modify the paragraph to clarify that the statewide TRM to be used is the one in effect at the time the utility files its application. The Division of Energy would modify the paragraph to clarify that the EM&V evaluation would be based on the methodologies contained within the utility's application rather than on subsequently changed methodologies.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff and Ameren Missouri. The use of a utility-specific TRM should be permitted if the commission finds that to be appropriate. The language proposed by Ameren Missouri is simpler and will be adopted. The other proposed changes will not be adopted.

COMMENT #43: The Division of Energy would add a new paragraph 20.093(7)(E)3, which would create a rebuttable presumption that measured savings determined by application of the state-wide TRM are accurate. According to the Division of Energy, this change is intended to make the state-wide TRM the default tool for measure evaluation by utility EM&V contractors.

RESPONSE: As previously indicated, the commission intends to allow for the use of alternative TRMs and will not make the change proposed by the Division of Energy.

COMMENT #44: Section 20.093(8) describes the content and procedures surrounding the demand-side program annual report to be filed by the electric utilities. The section allows interested parties ninety (90) days from the day the report is filed to file comments about that report. Staff proposes that the comment period be shortened to thirty (30) days. Renew Missouri suggests the rule require the electric utilities to make a public version of their report available for publication on the commission's website.

RESPONSE AND EXPLANATION OF CHANGE: The commission believes that a shorter time allowed for filing comments will allow the commission to consider those comments more quickly and should not impose a burden on those wishing to file comments. The commission will adopt the change proposed by staff. Renew Missouri's proposal is also reasonable and will ensure that the demand-side program annual reports are readily available to the public. The commission will adopt the change proposed by Renew Missouri.

COMMENT #45: Subsection 20.093(8)(B) describes the contents of a utility's demand-side program annual report. Paragraph 3 of that subsection requires the report to include a comparison of certain savings impacts. Staff would modify the description of the savings impacts to be compared.

RESPONSE AND EXPLANATION OF CHANGE: Staff's proposed change will clarify the requirement and will be adopted.

COMMENT #46: Public Counsel asks the commission to delete paragraph 20.093(8)(B)4, which provides that for market transformation demand-side programs, the demand-side program annual report must include a quantitative and qualitative assessment of the progress being made in transforming the market. Public Counsel believes that all MEEIA programs should be considered market transforming and that the requirement is unnecessary and redundant.

RESPONSE: The commission disagrees with Public Counsel and believes the reporting requirement will be useful. The commission will not make the change proposed by Public Counsel.

COMMENT #47: Paragraph 20.093(8)(B)8 requires the demand-side program annual report to include the estimated net economic benefits and net-shared benefits of the demand-side portfolio. Staff would delete "economic benefits and "shared" from "net shared benefits" in recognition that "net economic benefits" and "net shared benefits" are not defined terms

used in the rules. Ameren Missouri and KCP&L and GMO would make changes to accomplish the same purpose as staff, and would add a reference to the utility cost test (UCT). Public Counsel would delete the entire paragraph as unnecessary and subjective.

RESPONSE AND EXPLANATION OF CHANGE: The commission believes that the paragraph, as modified by staff, will add valuable information to the demand-side program annual report. The commission will adopt the changes proposed by staff.

COMMENT #48: Paragraph 20.093(8)(B)11 requires the demand-side program annual report to include a demonstration of the relationship of the demand-side program to demand-side resources in the latest filed IRP compliance filing. Staff would make demand-side program plural. The NRDC and the Division of Energy would delete the entire paragraph because of their opposition to any linkage between the MEEIA program and the IRP requirements. Public Counsel would delete the entire paragraph as unnecessary and unclear.

RESPONSE AND EXPLANATION OF CHANGE: The commission believes the connection between MEEIA and the IRP requirements is important to establishing a baseline to measure the effectiveness of the MEEIA programs. The commission will retain the paragraph, but will make the change proposed by Staff.

COMMENT #49: Among other things, section 20.093(9) requires a utility to provide certain workpapers with all formulas intact. Staff would add that links also be provided intact. The section requires electric utilities with an approved DSIM to submit a Surveillance Monitoring Report, including a quarterly progress report. Ameren Missouri suggests a change to allow the utility to offer suggestions on the format of the quarterly progress report. It would also provide for the report to be submitted to other stakeholders.

RESPONSE AND EXPLANATION OF CHANGE: The Commission will adopt the change proposed by staff. Ameren Missouri's proposal to recognize format suggestions from the utilities is reasonable and will be adopted, although ultimately, the final determination about formatting and other aspect of the report will be made by the commission, as will be discussed in comment #50. Ameren Missouri's suggestion to refer to "stakeholders" rather than "parties" is also reasonable, although the commission will retain the requirement that other "stakeholders" to whom the report will be submitted must be approved by the commission.

COMMENT #50: Ameren Missouri suggests the addition of a new subsection 20.093(9)(D), which will provide that any disagreements about the report content will be settled by the commission.

RESPONSE AND EXPLANATION OF CHANGE: The commission will adopt the change suggested by Ameren Missouri and will expand it to indicate the commission will ultimately settle any disagreements about formatting as well as content of the report.

COMMENT #51: Subsection 20.093(14)(A) makes a reference to a semi-annual DSIM rate adjustment proceeding. Staff, as well as Ameren Missouri and KCP&L and GMO point out that DSIM rate adjustments are now due annually rather than semi-annually. The subsection also provides that parties to the case in which a utility applies for approval of its demand-side programs have a right to be a party in any subsequent periodic rate adjustment proceedings without having to apply for intervention. However the rule requires such person or entity to file a notice of intent to participate in the subsequent proceeding. Public Counsel suggests language to make it clear that Public Counsel and staff do not need to file such notice to participate.

RESPONSE AND EXPLANATION OF CHANGE: Staff, Ameren Missouri and KCP&L and GMO are correct. Semi-annual will be deleted. The commission agrees with Public Counsel that Public Counsel and staff do not need to file notice to participate in rate adjustment proceedings and will modify the subsection accordingly. The commission also notes that subsection (A) contains two distinct provisions and is better divided into two subsections. The subsequent subsection will be renumbered accordingly.

COMMENT #52: Staff proposes a clarifying language change to subsection 20.093(15)(A).

RESPONSE AND EXPLANATION OF CHANGE: The commission will make the change proposed by staff.

COMMENT #53: Staff proposes a clarifying language change to subsection 20.093(15)(B).

RESPONSE AND EXPLANATION OF CHANGE: The commission will make the change proposed by staff.

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

(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 Programs Investment Mechanisms.

(2) Applications to establish, continue, or modify a Demand-Side Programs Investment Mechanism (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 utility's filing for demand-side program approval.

(A) An application to establish a DSIM shall include the following supporting information as part of, or in addition to, its direct testimony. Supporting workpapers shall be submitted with all models and spreadsheets provided as executable versions in native format with all links and formulas intact.

1. The notice provided to customers describing how the proposed DSIM will work, how any proposed DSIM rate will be determined, and how any DSIM rate will appear on customers' bills;

2. An example customer bill showing how the proposed DSIM shall be separately identified on affected customers' bills;

3. A complete, reasonably detailed, description and explanation of the design, rationale, and intended operation of the proposed DSIM;

4. Estimates of the effect of the DSIM and all other impacts of the demand-side program spending, in aggregate, on customer rates and average bills for each of the next five (5) years, and as a net present value of net benefits over the lifetime of the demand-side program impacts, for each rate class;

5. Estimates of the effect of the DSIM on earnings and key credit metrics for each of the next three (3) years including the level of earnings and key credit metrics expected to occur for each of the next three (3) years with and without the DSIM;

6. A complete, reasonably detailed, explanation of all the costs that shall be considered for recovery under the proposed DSIM and the specific account used for each cost item on the electric utility's books and records;

7. A complete, reasonably detailed, explanation of any change in business risk to the electric utility resulting from implementation of a DSIM in setting the electric utility's allowed return on equity, in addition to any other changes in business risk experienced by the electric utility;

8. A proposal for how the commission can determine if the DSIM is aligned with helping customers use energy more efficiently;

9. If the utility proposes to adjust its DSIM rates between general rate proceedings, proposed DSIM rate adjustment clause tariff sheets; and

10. If the utility proposes to adjust the DSIM amount between general rate proceedings, a complete, reasonably detailed, explanation of how the DSIM rates shall be established and how they will be adjusted for any over- and/or under-recovery amounts, as well as the impact on the DSIM amount as a result of, established, modified, or discontinued demand-side programs.

(B) If an electric utility files to modify its approved DSIM, the electric utility shall file with the commission and serve upon parties, as provided in section (15) below, the following supporting information as part of, or in addition to, direct testimony. Supporting workpapers shall be submitted with all models and spreadsheets provided as executable versions in native format with all links and formulas intact;

1. Information as required by subsection (2)(A), above;

2. Explanation of any proposed modification to the DSIM and why the proposed modification is being requested;

3. A complete, reasonably detailed, explanation of any change in business risk to the electric utility resulting from modification of a DSIM in setting the electric utility's allowed return on equity, in addition to any other changes in business risk experienced by the electric utility; and

4. Any additional information the commission orders to be provided.

(C) Any party to the application for a utility's filing for demand-side program approval 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.

(F) In determining to approve a request to establish, modify, or continue a DSIM, the commission may 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 demand-side programs' impacts, any interaction among the various components of the DSIM that the utility may propose, and the incentives or disincentives provided to the utility as a result of the inclusion or exclusion of DSIM components as defined in 4 CSR 240-20.092(N). In this context the word "disincentives" means any barrier to the implementation of a DSIM. There is no penalty authorized in this section.

(G) 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 240-20.094 Demand-Side Programs. Indirect costs associated with demand-side programs, including but not limited to, costs of evaluation, measurement, and verification (EM&V), and/or utility's portion of statewide technical reference manual, shall be allocated to demand-side programs and thus shall be eligible for recovery through an approved DSIM. The commission shall approve any cost recovery component of a DSIM simultaneously with the programs approved in accordance with 4 CSR 240-20.094 Demand-Side Programs.

(H) Any throughput disincentive component of DSIM shall be based on energy or 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 will be determined as a result of energy and demand savings determined through EM&V.

1. The commission shall order any throughput disincentive component of a DSIM simultaneously with the demand-side programs approved in accordance with 4 CSR 240-20.094 Demand-Side Programs.

2. In a utility's filing in which a throughput disincentive component of a DSIM is considered, there is no requirement for any implicit or explicit utility throughput disincentive component of a DSIM or for a particular form of a throughput disincentive component of a DSIM.

3. Any explicit throughput disincentive component of a DSIM shall be implemented on a prospective basis.

(I) Any earnings opportunity component of a DSIM shall be based on the performance of demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and shall include a methodology for determining the utility's earnings opportunity amount for individual demand-side programs based upon program performance relative to commission-approved performance metrics for each demand-side program.

1. Energy and demand savings targets approved by the commission for use in the earnings opportunity component of a DSIM are not necessarily the same as the incremental energy and demand savings goals and cumulative energy and demand savings goals specified in 4 CSR 240-20.094(2).

2. The commission shall order any earnings opportunity component of a DSIM simultaneously with the approval of the demand-side programs in accordance with 4 CSR 240-20.094 Demand-Side Programs.

3. 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 must be measured and verified through EM&V.

(J) If the DSIM proposed by the utility includes adjustments to DSIM rates between general rate proceedings, the DSIM shall include a provision to adjust the DSIM rates not less than annually to include a true-up for over- and under-recovery of the DSIM amount as well as the impact on the DSIM amount as a result of approved new, modified, or discontinued demand-side programs.

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

(A) When submitting an application to discontinue a DSIM, the electric utility shall file with the commission and serve on parties as provided in section (15), the following supporting information as part of, or in addition to, direct testimony. Supporting workpapers shall be submitted with all models and spreadsheets provided as executable versions in native format with all links and formulas intact:

1. An example of the notice to be provided to customers;

2. If the utility's DSIM allows adjustments of the DSIM rates between general rate proceedings, a complete, reasonably detailed, explanation of how the over-/under-recovery of the DSIM amount that the electric utility is proposing to discontinue shall be handled;

3. A complete, reasonably detailed, explanation of why the DSIM is no longer necessary to provide the electric utility a sufficient opportunity to recover demand-side programs costs, throughput disincentive, and/or to receive an earnings opportunity;

4. A complete, reasonably detailed, explanation of any change in business risk to the electric utility resulting from discontinuation of the DSIM in setting the electric utility's allowed return on equity, in addition to any other changes in business risk experienced by the electric utility; and

5. Any additional information the commission orders to be provided.

(4) Requirements for Adjustments of DSIM Rates Between General Rate Proceedings. An electric utility with a DSIM shall file to adjust its DSIM rates no less often than annually.

(A) The electric utility shall file tariff sheets to adjust its DSIM rates accompanied by supporting testimony and contain at least the following supporting information. All models and spreadsheets shall be provided as executable versions in native format with all links and formulas intact.

1. Amount of revenue that it has over-/under-recovered through the most recent recovery period by rate class.

2. Proposed positive or negative adjustments by rate class.

3. Electric utility's short-term borrowing rate.

4. Proposed adjustments to the current DSIM rates.

5. Complete documentation for the proposed adjustments to the current DSIM rates.

6. Any additional information the commission ordered to be provided.

(B) The staff shall examine and analyze the information filed by the electric utility and additional information obtained through discovery, if any, to determine if the proposed adjustments to the DSIM amount and 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 filing for demand-side program approval. 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 adjustments 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 filing for demand-side program approval, the commission shall either issue an interim rate adjustment order approving the tariff sheets within sixty (60) days of the electric utility's filing or, if no such order is issued, the adjustments to the DSIM rates shall take effect sixty (60) days after the tariff sheets were filed. If the adjustments to the DSIM rates are not in accordance with the provisions of this rule, section 393.1075, RSMo, or the DSIM established, modified, or continued in the most recent filing for demand-side program approval, the commission shall reject the proposed tariff sheets within sixty (60) days of the electric utility's filing and may instead order the filing of interim tariff sheets that implement its decision.

(C) Adjustments to the DSIM rates shall reflect a comprehensive measurement of both increases and decreases to the DSIM amount established in the most recent demand-side program approval or DSIM rate adjustment case plus the increases and decreases to the DSIM amount which occurred since the most recent demand-side program approval or DSIM rate adjustment case. All DSIM rate adjustments shall include a true-up of past DSIM collections based on the latest EM&V results where applicable. Any over-/under-recovered amounts will be accounted for in the going forward DSIM rates.

(D) The electric utility shall be current on its submission of its Surveillance Monitoring Reports as required in section (10) and its annual reports as required in section (9) in order to increase the DSIM rates.

(E) If the staff, public counsel, or other party believes the electric utility has not met the filing requirements of subsection (4)(A), 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 subsection (4)(A), 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 subsection (4)(A) 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 subsection (4)(A) or a commission order in a previous proceeding in a request to decrease DSIM rates shall not alter the processing timeline.

(5) Implementation of DSIM. Once a DSIM is established, modified, or discontinued, in lieu of contemporaneous rate recovery the utility may request use of deferral accounting for MEEIA financial impacts using the utility's latest approved weighted average cost of capital until the cut-off date for cost recognition ordered in the utility's next general rate proceeding.

(6) Duration of DSIM. Once a DSIM is approved by the commission, it shall remain in effect for the term established by the commission in the order approving that DSIM so as to allow full recovery of all DSIM amounts. During the term of an approved DSIM the utility or any party to the application for the utility's filing for approval of a demand-side program may propose modifications to the DSIM. No modification of a utility's DSIM shall be made without the assent of the utility.

(7) Disclosure. Regardless of whether or not the utility requests adjustments of its DSIM rates between general rate proceedings, any amounts charged under a DSIM approved by the commission, including any earnings opportunity 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. The disclosure shall also appear on the utility's websites.

(8) 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 Demand-Side Programs. The utility shall provide oversight and guidance to the independent EM&V contractor, but shall not influence the independent EM&V contractor's report(s). The commission shall hire an independent contractor to audit and report on the work of each utility's independent EM&V contractor. The commission staff shall provide oversight and guidance to the independent commission contractor, but shall not influence the independent contractor's audit(s). Staff counsel shall provide legal representation to the independent contractor in the event the independent contractor is required to testify before the commission.

(D) EM&V final reports from the utility's contractor of each approved demand-side program shall—

1. Document, include analysis, and present any applicable recommendations for at least the following. All models and spreadsheets shall be provided as executable versions in native format with all links and formulas intact:

A. Process evaluation and recommendations, if any; and

B. Impact evaluation—

(I) The annual gross and net demand savings and energy savings achieved under each demand-side program, and the techniques used to estimate annual demand savings and energy savings;

(II) For demand-side programs subject to cost-effectiveness tests, include total resource cost test, societal cost test, utility cost test, participant cost test, and nonparticipant cost test of each demand-side program; and

(III) Determine the net benefits achieved for each demand-side program subject to cost-effectiveness tests and for the portfolio of such programs using the utility cost test (UCT) methodology;

2. Be completed by the EM&V contractor on a schedule approved by the commission at the time of demand-side program approval in accordance with 4 CSR 240-20.094(4); and

3. Be filed with the commission in the case in which the utility's demand-side program approval was received and delivered simultaneously to the utility and the parties of the case in which the demand-side program was approved.

(E) Electric utility's EM&V contractors shall—

1. Include specific methodology for performing EM&V work; and

2. Utilize the TRM approved with the utility's application for its DSIM and demand-side portfolio.

(9) Demand-Side Program Annual Report. Each electric utility with one (1) or more approved demand-side programs shall file an annual report by no later than ninety (90) days after the end of each program year, make a public version available for publication on the commission's website, and serve a copy on each party to the case in which the demand-side programs were last established, modified, or continued. Interested parties may file comments with the commission concerning the content of the utility's annual report within thirty (30) days of its filing. Annual reports shall include at a minimum the following information, and all models and spreadsheets shall be provided as executable versions in native format with all links and formulas intact:

(A) An affidavit attesting to the veracity of the information; and

(B) A list of all approved demand-side programs and the following information for each approved demand-side program:

1. Actual amounts expended by year, including customer incentive payments;

2. Peak demand and energy savings impacts and the techniques used to estimate those impacts;

3. A comparison of the estimated actual annual peak demand and energy savings impacts to the annual demand and energy savings targets approved by the commission under 4 CSR 240-20.094(4)(I) or 4 CSR 240-20.094(5)(A)5;

4. For market transformation demand-side programs, a quantitative and qualitative assessment of the progress being made in transforming the market;

5. A comparison of actual and budgeted demand-side program costs, including an explanation of any increase or decrease of more than twenty percent (20%) in the cost of a demand-side program;

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

7. The estimated cost-effectiveness of the demand-side program and a comparison to the estimates made by the utility at the time the demand-side program was approved;

8. The estimated net benefits of each demand-side program and the demand-side portfolio;

9. For each demand-side program where one (1) or more customers have opted out of demand-side programs pursuant to section 393.1075.7, RSMo, a listing of the customer(s) who have opted out of participating in demand-side programs;

10. As part of its annual report, the electric utility shall file or provide a reference to the commission case that contains a copy of the EM&V report for the most recent annual reporting period; and

11. Demonstration of relationship of the demand-side programs to demand-side resources in latest filed 4 CSR 240-22 compliance filing.

(10) Submission of Surveillance Monitoring Reports. Each electric utility with an approved DSIM shall submit to staff, public counsel, and parties approved by the commission a Surveillance Monitoring Report. Each electric utility with a DSIM shall submit as page 6 of the Surveillance Monitoring Report a quarterly progress report in a format agreed upon by the utility and staff, and all models and spreadsheets shall be provided as executable versions in native format with all links and formulas intact. The report shall be submitted to the staff, public counsel, and stakeholders approved by the commission.

(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 section (10), after notice and an opportunity for a hearing, the commission may suspend a DSIM or order other appropriate remedies as provided by law.

(D) Disagreements about the report format or content shall be settled by the commission.

(11) Prudence Reviews. A prudence review of the costs subject to the DSIM shall be conducted no less frequently than at twenty-four (24)-month intervals.

(12) Tariffs and Regulatory Plans. The provisions of this rule shall not affect—

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

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

(15) Party status and providing to other parties affidavits, testimony, information, reports, and workpapers in related proceedings subsequent to the utility's filing for demand-side program approval, modification, or continuation of a DSIM.

(A) A person or entity granted intervention in a utility's filing for demand-side program approval in which a DSIM is approved by the commission shall have the right to be a party to any subsequent related periodic rate adjustment proceeding without the necessity of applying to the commission for intervention; however, such person or entity shall file a notice of intention to participate within the intervention period. Public Counsel and the commission's staff do not need to file a notice of intention to participate. In any subsequent utility's filing for demand-side program approval, such person or entity must seek and be granted status as an intervenor to be a party to that proceeding.

(B) Affidavits, testimony, information, reports, and workpapers to be filed or submitted in connection with a subsequent related annual DSIM rate adjustment proceeding or utility's filing for demand-side program approval to modify, continue, or discontinue the same DSIM shall be served on or submitted to all parties from the prior related demand-side program approval proceeding and on all parties from any subsequent related periodic rate adjustment proceeding or utility's filing for demand-side program approval to modify, continue, or discontinue the same DSIM, concurrently with filing the same with the commission or submitting the same to the manager of the energy resource analysis section of the staff and public counsel.

(C) A person or entity not a party to the utility's filing for demand-side program approval in which a DSIM is approved by the commission may timely apply to the commission for intervention, pursuant to 4 CSR 240-2.075(2) through (4) of the commission's rule on intervention, respecting any related subsequent periodic rate adjustment proceeding or, pursuant to 4 CSR 240-2.075(1) through (5), respecting any subsequent utility's filing for demand-side program approval to modify, continue, or discontinue the same DSIM.

(16) Missouri Energy Efficiency Investment Act (MEEIA) Rate Design Modifications.

(A) An electric utility may request modification of its DSIM rates by filing tariff schedule(s) with the commission as part of—

1. An application for approval of demand-side programs or a demand-side program plan and a DSIM; or
2. A general rate case proceeding.

(B) Any request for modification of a rate design shall include with the filing supporting documentation for the request, including but not limited to, workpapers, data, computer model documentation, analysis, and other supporting information to support and explain the modification of the rate design. All information shall be labeled and all spreadsheets shall be provided as executable versions with all links and formulas intact.

(C) Right to Discovery Unaffected. In addressing certain discovery matters and the provision of certain information by electric utilities, this rule is not intended to restrict the discovery rights of any party.