State of Missouri Public Service Commission

File No. EW-2011-0372

Comments of the Natural Resources Defense Council

INTRODUCTION

On January 30, 2013, the Missouri Public Service Commission (MPSC or Commission) issued an order directing filings and scheduling a conference in Docket EW-2011-00732. This order explains:

> Staff also recommends the Commission consider modifying its MEEIA rule to facilitate the implementation of those alternative rate designs. To further those goals, the Commission will give interested utilities and other stakeholders an opportunity to submit specific proposed regulatory language to assist the Commission in meeting the statute's requirement to promulgate an appropriate rule or rules. The interested utilities and other stakeholders may also submit written arguments in support of their proposed regulatory language. Order at 1-2.

The Natural Resources Defense Council (NRDC) appreciates this opportunity to suggest specific proposed language to assist the Commission in promulgating an appropriate rule and support this proposal. We applaud the Commission's decision to request specific rule language and, for the reasons explained below, we urge the Commission to adopt a rule amendment as quickly as possible, clearing the way for a comprehensive examination of utility services and rate designs in Missouri.

Our comments are organized as follows --

A. A background section describing the need for regulatory changes.
B. A description of the specific objectives the proposed rule seeks to accomplish.
C. A description of the policies that we propose as tools to accomplish the objectives, along with the justifications and legal considerations associated with these policy recommendations.
D. The rule language NRDC proposes.

A. Background

In 2009, the Missouri General Assembly adopted the Missouri Energy Efficiency Investment Act (hereinafter, "MEEIA"), requiring the Commission to, among other things, "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 allowing the Commission to use a variety of tools to accomplish this goal, including, "in combination and without limitation: capitalization of investments in and expenditures for demand-side programs, rate design modifications, accelerated depreciation on demand-side investments, and allowing the utility to retain a portion of the net benefits of a demand-side program for its shareholders." The statute further provides that, "Prior to approving a rate design modification associated with demand-side cost recovery, the commission shall conclude a docket studying the effects thereof and promulgate an appropriate rule." The goal of this docket is to provide for the rulemaking required by the statute before rate design modifications associated with demand-side investments can be approved.

This proceeding began almost two years ago, and the parties have thoroughly explored the potential meaning of this language and how the Commission might carry out MEEIA's directives. As detailed in the January 2013 Staff Report in this docket, consensus among stakeholders on what the language means and what action the Commission should take appears elusive. Staff's first and second recommendations pose essentially the same questions that were present in 2011.

Meanwhile, Missouri utilities:

- Continue to offer rate designs that provide discounts for using greater amounts of electricity.
- In some cases, have in place mechanisms that protect them from revenues that are "lost" as a result of customer participation in utility energy efficiency programs but do not protect customers from revenues that may offset or exceed these "losses" related to greater customer usage from weather or other causes.
- Do not have in place the most effective mechanism for ensuring that the utility focuses its efforts on helping its customers use energy as efficiently as possible, rather than on increasing sales: a decoupling mechanism.
- Have an overall set of service and tariff options that appear to have changed little for decades despite enormous changes in the industry.

Inasmuch as some parties assert that the MEEIA statute requires a rulemaking in order to provide a clear policy and legal foundation upon which to address these problems, NRDC believes it most useful course of action at this point two years into the docket that the Commission simply proceed with a rulemaking that provides a clear path for solutions to these problems to be considered and adopted.

B. Objectives

Simply put, the objective of the rulemaking docket pursuant to MEEIA should be to ensure that Missouri's ratemaking policies, including but not limited to rate design modifications, encourage both utilities and their customers to invest in cost-effective demand-side resources and advance the goal of MEEIA, to "achieve all cost-effective demand-side savings." 393.1075(4) RSMo.

At a minimum, the rulemaking should seek to establish a clear path for the following changes to take place:

1. Eliminating the inconsistency between MEEIA and old utility rates that discount for high usage.
2. Replacing the one-sided lost revenue recovery mechanisms as those expire with more effective and even-handed decoupling mechanisms.
3. Using these decoupling mechanisms as a secure foundation from which to embark upon a full exploration of utility services and associated prices that will support Missouri's electricity customers in moving towards significantly higher energy efficiency in their homes and businesses.

4. Reviewing whether the utility's use of fixed charges poses an unnecessary obstacle to customer participation in energy efficiency programs, and address those obstacles by reducing fixed charges to levels that do not pose such an obstacle, taking into consideration other rate making objectives and other ways of achieving those objectives.

C. Policy Recommendations, Justifications and Legal Authority

Policy Recommendation #1 – Clarify that Decoupling is Permissible: NRDC proposes that the Commission modify the MEEIA rules to allow utilities to propose decoupling mechanisms to address the throughput incentive, instead of lost revenue recovery mechanisms. Further, we propose that the Commission require as part of each DSIM filing that utilities who propose a lost-revenue recovery mechanism instead of a decoupling mechanism must also provide an analysis comparing the proposed lost-revenue recovery mechanism with a decoupling mechanism in terms of their effects on customer bills, shareholder revenues, and the effectiveness of each alternative mechanism in eliminating the throughput incentive.

- <u>Is decoupling lawful in Missouri</u>? Yes. MEEIA requires the Commission to ensure that the Missouri electric utilities' financial incentives are aligned with the goal of capturing the cost-effective potential for energy savings. Decoupling accomplishes this objective by removing the utility's financial incentive to maintain or increase sales volume between rate cases by ensuring that the utility recovers no more and no less than its authorized fixed cost revenue requirement.

  The Missouri Court of Appeals for the Western District has broadly interpreted the authority MEEIA affords the Commission when it issued its January 15, 2013 opinion in <u>State ex rel. Public Counsel v. MPSC</u>, WD74676, upholding the current MEEIA rules. The Court concluded that the Commission was within its authority to allow rate adjustments between rate cases, that the Commission was within its authority to allow for lost-revenue recovery, that the Commission was within its authority to adopt a limited definition of lost revenues, and that the Commission was within its authority to limit semi-annual rate adjustments to just the program cost recovery component of the DSIM. In affirming the Commission's authority to allow for lost-revenue recovery, the Court made the following statement, which is as true for decoupling as it is for lost-revenue mechanisms.

  > "Section 393.1075.3(2) provides that the Commission shall '[e]nsure 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.' As the parties articulate throughout their briefs, one of the major drawbacks for utilities in implementing energy efficiency programs is the potential financial impact such programs can have on utilities. The goal of energy efficiency programs is to decrease customer use of and demand for electricity. Consequently, energy efficiency programs decrease the demand for electric utilities' product, which, in turn, decreases a utility's revenue. Therefore, because of the negative financial impact energy efficiency programs have on utilities, it follows that allowing recovery of

lost revenue attributable to energy efficiency programs would act as an effective mechanism to ensure utility financial incentives are aligned with helping customers to use energy more efficiently." Opinion, p. 18.

- How does decoupling fit within with PURPA section 111(d)(17)? That section encourages states to ensure that their ratemaking policies encourage utilities to invest in energy efficiency programs. It lists a number of policy options that states must consider. One of the policy options that states must consider is, "removing the throughput incentive and other regulatory and management disincentives to energy efficiency."[1] This language is clearly designed to encourage states to consider decoupling or other similar mechanisms.

  Both PURPA and the MEEIA statute have in common a focus on three aspects of utility ratemaking that will, in combination, allow utilities to capture the benefits of efficiency while remaining financially healthy. First, timely recovery of program costs; second, the elimination of the throughput incentive; and finally the opportunity for earnings through a performance incentive.

- How does decoupling work? The goal of decoupling is to break the link between utility fixed cost recovery and sales, so that the utility is free to focus its efforts on providing the service its customers' need, without regard to whether that service affects sales volumes. The utility's reward derives from providing that service at the least cost, rather than selling ever more energy.

  NRDC supports a simple system of periodic true-ups in rates, designed to correct for disparities between the revenue the utility actually collects for its fixed cost revenue requirement and the revenue the regulatory commission assumed it would collect, and gave it an opportunity to collect, in a rate case. The true-ups would either restore to the utility or return to customers the difference between the revenues assumed in ratemaking and those actually collected.

- What has been the experience of other jurisdictions with decoupling? A study recently completed for NRDC, the Regulatory Assistance Project, and ACEEE comprehensively surveys the decoupling mechanisms currently (or recently) in place and rate adjustments made under those mechanisms. Morgan, Pamela, "A Decade of Decoupling for U.S. Energy Utilities: Rate Impacts, Designs and Observations" (revised Feb. 2013)("Morgan"). This 2013 study found that the rate effects of decoupling are generally minimal and most Commissions do not find the adoption of decoupling such a significant change to a utility's business risk that they lower the return on common equity that they find reasonable under all of the utility's circumstances. The 2013 study confirms these findings from a base of 77 utilities across 25 states. Based on 1,269 separate rate adjustments produced by all the revenue adjustment mechanisms since

[1] EISA Section 532, PURPA 111(d) (17) states: "(A) IN GENERAL.—The rates allowed to be charged by any electric utility shall— (i) align utility incentives with the delivery of cost-effective energy efficiency; and (ii) promote energy efficiency investments.(B) POLICY OPTIONS.— In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider— (i) removing the throughput incentive and other regulatory and management disincentives to energy efficiency…"

2005, the study concludes that annual rate changes were "small to miniscule" and did not exceed 2 percent for 85 percent of the electric and 75 percent of the gas rate adjustments, with 37 percent involving refunds to utility customers. [2] Put another way, the typical electric rate adjustment averaged about seven cents a day (up or down). For natural gas utilities, it was less than five cents a day. [3]

- How will decoupling change the risk incurred by shareholders and customers? The question of whether and how much decoupling impacts or "shifts" utility risk has been considered by regulators in a large number of states. The same 2013 study cited above found that overwhelmingly, state regulators have rejected claims that these mechanisms somehow shift utilities' overall attractiveness as investments, and those utilities adopting it should have their authorized earnings cut to compensate. Morgan found no evidence supporting this claim, and determined that almost four-fifths of the 72 regulatory decisions addressing the issue ordered no such reduction.

- How does decoupling compare from utility's perspective and from the customers' perspective from the DSIM's approved so far under the current MEEIA rules? The DSIM's approved to date use "lost revenue" mechanisms rather than decoupling to address the throughput incentive. As NRDC has made abundantly clear, we believe that lost revenue mechanisms have serious flaws and that decoupling mechanisms are both a more thorough and more equitable way of aligning the utility's financial incentives with the goals of MEEIA.

  One key flaw of the lost revenue mechanism is that the result can easily be to "restore" revenues to the utility that it never actually "lost." Lost revenue recovery is not symmetrical; it considers only the impact of the efficiency programs in lowering sales and excludes any factor, such as weather, that might have increased sales over those assumed in ratemaking during the same period. In the hypothetical scenario wherein a refrigerator recycling program saved electricity, but sales were still high due to increased air conditioning, a lost revenue recovery mechanism would allow an increase in rates when in fact there was no under-recovery of the utility's fixed costs.

  Second, lost revenue recovery mechanisms do not actually break the link between utility sales and earnings. The utility's incentive to increase sales remains. A utility will still likely resist any changes that would decrease sales, such as stricter building codes, because they would not receive lost revenues to compensate for the related sales declines.

- Will decoupling lead to cost increases for electric customers? No. Decoupling does not increase the cost of utility service; it simply ensures that customers pay no more and no less than the fixed costs the Commission found necessary and prudent to provide them utility service. What decoupling does facilitate is **cost savings** to customers, through the reduced bills energy efficiency makes possible. Because these savings reflect both fixed

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[2] Morgan pp. 4-5.
3. Morgan p. 4 ("This amounts to about $2.30 per month for the average electric customer, and about $1.40 per month for the average natural gas customer. "

and variable costs of energy consumption, they generally dwarf any amount of fixed cost true-up resulting from decoupling.

In 2009, the Lawrence Berkeley Laboratories released a study in which they modeled the impact on customer bills of energy efficiency programs with and without full decoupling and other incentives for a prototypical southwestern utility. This study concluded that over a 20-year planning horizon, the energy efficiency programs saved customers between $1 billion and $2.32 billion, lowering bills by 3-6%, with or without the decoupling mechanism. The modeling projected a barely perceptible impact of the decoupling mechanism on the consumer savings totals.[4]

- Is decoupling single issue ratemaking? No. Single issue ratemaking commonly refers to changing rates for an isolated change in the utility's cost structure without an examination whether other cost elements have changed. Many regulatory commissions use this approach for the cost of purchased natural gas for natural gas distribution utilities and the costs of fuel and net power interchange for electric utilities. More recently, this approach has applied to the costs of energy efficiency programs, with environmental remediation, with transmission and distribution system additions or with pipe replacement projects. Decoupling ensures the utility receives no more nor less than the total fixed cost revenue requirement the regulatory commission last approved in a rate case. In other words, it addresses revenue, not cost. Although hypothetically a utility's fixed costs could decline so far that it would be unreasonable to allow it to collect the last approved level, it is difficult to think of a single instance where this has occurred.

- Doesn't decoupling deprive customers of the benefits of regulatory lag? No. Regulatory lag refers to the period between when a regulatory commission or a utility determines that its last authorized revenue requirement is too high or too low, respectively, triggering a rate case filing, and the resolution of that rate case. Decoupling means that changes in revenues resulting from changes in consumption no longer contribute to this determination of need for a rate case. Instead, rates will change when underlying costs change sufficiently to warrant a case. Because cost reductions from the last authorized revenue requirement improve a utility's income for the period, many believe that a relatively long period between rate cases helps ensure that utilities are cost-conscious and operate efficiently. Others believe that regular rate cases are necessary whether or not costs have changed much. Decoupling does not reduce a utility's incentive to manage costs because the mechanism works only on revenues. Reducing costs will still benefit the utility's income and incurring higher costs will hurt it financially.

Policy Recommendation #2 -- Other rate design considerations: NRDC proposes that the Commission require each utility to include, in each general rate case, a review of its rate design as it impacts utility and customer incentives to invest in demand side resources. The review must include at a minimum –

[4] Financial Analysis of Incentive Mechanisms to Promote Energy Efficiency: Case Study of a Prototypical Southwest Utility. Peter Cappers, Charles Goldman, Michele Chait, George Edgar, Jeff Schlegel, and Wayne Shirley. Ernest Orlando Lawrence Berkeley National Laboratory. March 2009.

a. A description of the utility's use of declining block rates, including an explanation of the objectives any such rate designs were intended to achieve, whether those objectives could be met in a way that does not encourage increased use of electricity, and any other relevant consequences of eliminating declining block rates.
b. A review of the utility's use of fixed charges, an explanation of the objectives these charges were intended to achieve, whether those objectives could be achieved with lower fixed charges or in other ways that do not discourage customer investment in demand-side resources, and the impact of those fixed charges on the customer payback periods for investments in demand-side resources.

- Is this rule change lawful in Missouri? Yes. MEEIA requires the Commission to "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 allowing the Commission to use a variety of tools to accomplish this goal, including, "in combination and without limitation: capitalization of investments in and expenditures for demand-side programs, rate design modifications, accelerated depreciation on demand-side investments, and allowing the utility to retain a portion of the net benefits of a demand-side program for its shareholders." (MEEIA, 393.1075.3(2) and .5). A rule requiring that each utility engage with the commission and stakeholders to review elements of its rate design as they impact energy efficiency investments fits squarely within the authority granted by this language.

- Is this rule change consistent with PURPA Section 111(d)(17)? Yes. That section encourages states to adopt ratemaking policies that encourage energy efficiency investment and requires that states consider "…(iii) including the impact on adoption of energy efficiency as one of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives; (iv) adopting rate designs that encourage energy efficiency for each customer class." Our proposal would help the Commission identify rate design changes that could be implemented in the utility's rate case to better align the financial incentives of utilities with the goals set out in MEEIA and PURPA.

- Why are fixed charges a barrier to maximizing the benefits of energy efficiency? Fixed charges undercut the customer incentive to make efficiency improvements because efficiency improvements reduce the variable charge on the utility bill and have no effect on fixed charges. Shifting costs from variable, kilowatt-hour charges, which are based on the amount of energy consumed, to the fixed customer charge, reduces the financial benefit from efficiency measures because customers will see less savings even when conserving more electricity. Participating customers will still see savings, but their monthly bill savings would be smaller and it would take more time for them to recover the upfront costs of energy efficiency investments. In essence, the payback period for efficiency improvements will increase.

  On this point, overwhelming evidence has been marshaled in recent years by the National Research Council of the National Academy of Sciences, the U.S. Congress's Office of Technology Assessment, the National Association of Regulatory Utility

Commissioners, and the national laboratories, among many others. Although "[t]he efficiency of practically every end use of energy can be improved relatively inexpensively," [5] "customers are generally not motivated to undertake investments in end-use efficiency unless the payback time is very short, six months to three years . . . The phenomenon is not only independent of the customer sector, but also is found irrespective of the particular end uses and technologies involved." [6]

Because increasing the fixed charge results in higher bills for those who use less electricity and lower bills for those who use more electricity, the adjustment weakens the price signal to customers and reduces their ability to respond to price signals by managing their electricity use. Moreover, it weakens the price signal at precisely the time when the industry most needs customers to prepare for the need for rising costs due to the need for infrastructure investment as well as fuel cost increases. Customers who receive strong price signals can manage these increases by managing their use, and in the process can actually reduce the need for investment in new or retrofitted generation resources.

Finally, the MEEIA statute contains language strongly suggesting that higher fixed charges are not an acceptable way for utilities to guard against lost-revenues. The statute, in section 3, subsection (2) requires the commission to "…(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***." (Emphasis added). This language means that, in addressing the throughput incentive for utilities, the legislature wanted to avoid changes that would diminish the benefits that customers see from energy efficiency investments.

- Why are declining block rates a barrier to achieving the goals of MEEIA? Put in place in the days before organized wholesale markets such as MISO, when utilities built generation for the summer peak and could do little with the capacity during the lower usage winter period, this rate design encouraged retail sales that contributed to fixed cost recovery and, at least theoretically, lowered rates for everyone. The situation today is different. The ability to sell temporarily excess generation on the wholesale market provides the retail customer base with some relief from bearing the entire fixed cost of generation built to serve a once-a-year peak. In the context of energy efficiency, declining block rates lengthen payback periods for energy efficiency improvements.

[5] U.S. National Academy of Sciences Committee on Science, Engineering and Public Policy, Policy Implications of Greenhouse Warming, p. 74 (1991). More recent reviews of energy-efficiency opportunities and barriers appear in National Research Council, Energy Research at DOE: Was it Worth It? (September 2001) and World Business Council for Sustainable Development, Energy Efficiency in Buildings: Transforming the Market, pp. 12 & 20 (2010).
[6] National Association of Regulatory Utility Commissioners, Least Cost Utility Planning Handbook, Vol. II, p. II-9 (December 1988).

D. Rule language –

NRDC welcomes the opportunity to suggest specific regulatory language to accomplish the policy objectives described above. However, we have not thoroughly reviewed the rules adopted pursuant to MEEIA to ensure that the following proposed changes reflect the entirety of the changes that would be needed. We would like to work with the Commission staff and other parties to refine our proposals to ensure consistency and clarity throughout the regulatory framework. With that caveat, we offer the following proposed changes (additions indicated by underlining, deletions by strikethrough) to 4 CSR 240-20.093(2):

(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 utility's demand-side program approval 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 application for demand-side program approval proceeding may support or oppose the establishment, continuation or modification of a DSlM and/or may propose an alternative DSlM for the commission's consideration including but not limited to modifications to any electric utility's proposed DSlM.

(C) The commission shall approve the establishment, continuation or modification of a DSlM and associated tariff sheets if it finds the electric utility's approved demand-side programs are expected to result in energy and demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers and will assist the commission's efforts to implement state policy contained in section 393.1075, RSMo to:

1. Provide the electric utility with timely recovery of 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/or 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 DSlM in setting the electric utility's allowed return on equity in general rate proceedings.

(E) In each general rate proceeding, the Commission shall determine whether the utility's rate design is compatible with or in conflict with the objective of encouraging investment in energy efficiency. If the Commission determines that a rate design is in conflict with the objective of encouraging investment in energy efficiency, it shall order a modification to that design, if it concludes that on the balance, the benefits of the modification outweigh any negative consequences taking into consideration other objectives of the utility's rate design. To facilitate this determination, each utility shall include an analysis showing how the elements of its rate design impact the customer and utility financial incentives to invest in demand-side resources. This analysis must include at a minimum:

a. A description of the utility's use, if any, of declining block rates, including an explanation of the objectives any such rate designs were intended to achieve, whether those objectives could be met in a way that does not encourage increased use of electricity, and any other relevant consequences of eliminating declining block rates.

b. A review of the utility's use of fixed charges, an explanation of the objectives these charges were intended to achieve, whether those objectives could be achieved with lower fixed charges or in other ways that do not discourage customer investment in demand-side resources, and the impact of those fixed charges on the customer payback period for investments in demand-side resources.

(F) In determining to approve, modify, or continue a DSlM, 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's impacts, any interaction among the various components of the DSlM that the utility may propose, and the incentives or disincentives provided to the utility as a result of the inclusion or exclusion of cost recovery component, utility lost revenue component and/or utility incentive component in the DSIM.

(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 utility market potential study 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 order any DSIM approval simultaneously with the programs approved in accordance with 4 CSR 240-20.094 or in a semi-annual DSIM rate adjustment case.

(H) Any utility lost revenue component of DSIM shall be designed to eliminate a financial disincentive for the utility to invest in demand side resources ~~based on energy or demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and measured and verified through EM&V~~.

1. The commission shall order any DSlM utility lost revenue requirement simultaneously with the programs approved in accordance with 4 CSR 240-20.094.
2. In a utility's demand-side program approval proceeding in which lost revenues are considered there is no requirement for any implicit or explicit lost revenue recovery or for a particular form of lost revenue component.
3. The commission may address lost revenues solely or in part, directly or indirectly, with a performance incentive mechanism.
4. Any explicit lost revenue component of DSIM shall be implemented on a retrospective basis and all energy and demand savings for claimed lost revenues must be measured and verified through EM&V prior to recovery.
5. Any utility may address lost revenues by proposing a decoupling mechanism, through which it would separate its prudent fixed-cost revenue recovery from the volume of retail sales in a way that sustains or enhances utility customers' incentives to use energy more efficiently. Any such decoupling mechanism shall not shift prudent costs from variable to fixed charges and shall ensure that the utility recovers its costs approved by the commission independently of the utility's volume of sales. Cost recovery

mechanisms adopted by the commission should be symmetrical, in the sense that revenues below or in excess of the approved revenue requirement would be periodically adjusted in order to equal the revenue requirement.

6. Any utility that proposes a lost revenue mechanism and does not propose a decoupling mechanism must demonstrate in its proposal how customers and shareholders are impacted by the lost revenue mechanism and how the decoupling mechanism would differ in its impact on customers and shareholders.

7. A utility may propose a decoupling mechanism as described in paragraph 5 either as part of or separate from its DSIM filing including in a rate case or in a separate docket.

(I) Any utility incentive 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 portion of annual net shared benefits achieved and documented through EM&V reports for approved demand-side programs. Each utility incentive component of a DSIM shall define the relationship between the utility's portion of annual net shared benefits achieved and documented through EM&V reports, annual energy savings achieved and documented through EM&V reports as a percentage of annual energy savings targets, and annual demand savings achieved and documented through EM&V reports as a percentage of annual demand savings targets.

1. Annual energy and demand savings targets approved by the commission for use in the DSIM utility incentive component are not necessarily the same as the incremental annual energy and demand savings goals and cumulative annual energy and demand savings goals specified in 4 CSR 240-20.094(2).

2. The commission shall order any DSIM utility incentive revenue requirement simultaneously with the programs approved in accordance with 4 CSR 240-20.094.

(I) 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 every six (6) months to include a true-up for over- and under-collection of the DSIM revenue requirement as well as the impact on the DSIM cost recovery revenue requirement as a result of approved new, modified or deleted demand-side programs.

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

(K) The Commission shall apportion the DSIM revenue requirement to each customer class.