State Electric Efficiency Regulatory Frameworks

July 2010

Contents

Spending and budgets for utility-administered electric efficiency programs continue to grow, due in part to the evolution of state policies that allow utilities to pursue efficiency as a sustainable business. **This latest review by IEE staff summarizes ongoing and the most recent policies that promote program cost recovery, lost revenue recovery, and performance incentive mechanisms for electric utilities on a state-by-state basis.**

- Nevada is the latest addition to a growing list of jurisdictions that have adopted revenue decoupling for the electric sector (state summary & map, p. 5). Hawaii, the District of Columbia, Idaho, Massachusetts, Oregon, Wisconsin and Vermont have also approved decoupling measures in the past two years. Delaware, Michigan, New Hampshire, New Jersey and New Mexico, and Minnesota are considering some form of decoupling. Lost revenue adjustment mechanisms were recently approved in Ohio, Oklahoma, North Carolina, and South Carolina as part of larger cost recovery mechanisms. Utah also recently entered the discussion by passing a law that encourages utilities and the Commission to investigate decoupling mechanisms.
- Twenty one states currently have incentives in place, with another seven states pending (p. 11). New Mexico, Colorado, Hawaii, Kentucky, Michigan, Ohio, Oklahoma, North Carolina, Texas, South Carolina, South Dakota, and Wisconsin have approved new incentive mechanisms in the last two years; Idaho, Indiana, Kansas, Montana, New Mexico, North Carolina, New York, and Utah are each considering some form of performance incentive for efficiency.
- Duke Energy's "virtual power plant" model, which combines cost recovery, lost revenue recovery and incentives into an avoided cost charge, has recently been approved in North Carolina and South Carolina. The Ohio Commission approved the VPP program in 2008. Duke has proposed similar mechanisms in Indiana. ■

State Regulatory Framework Summary Table

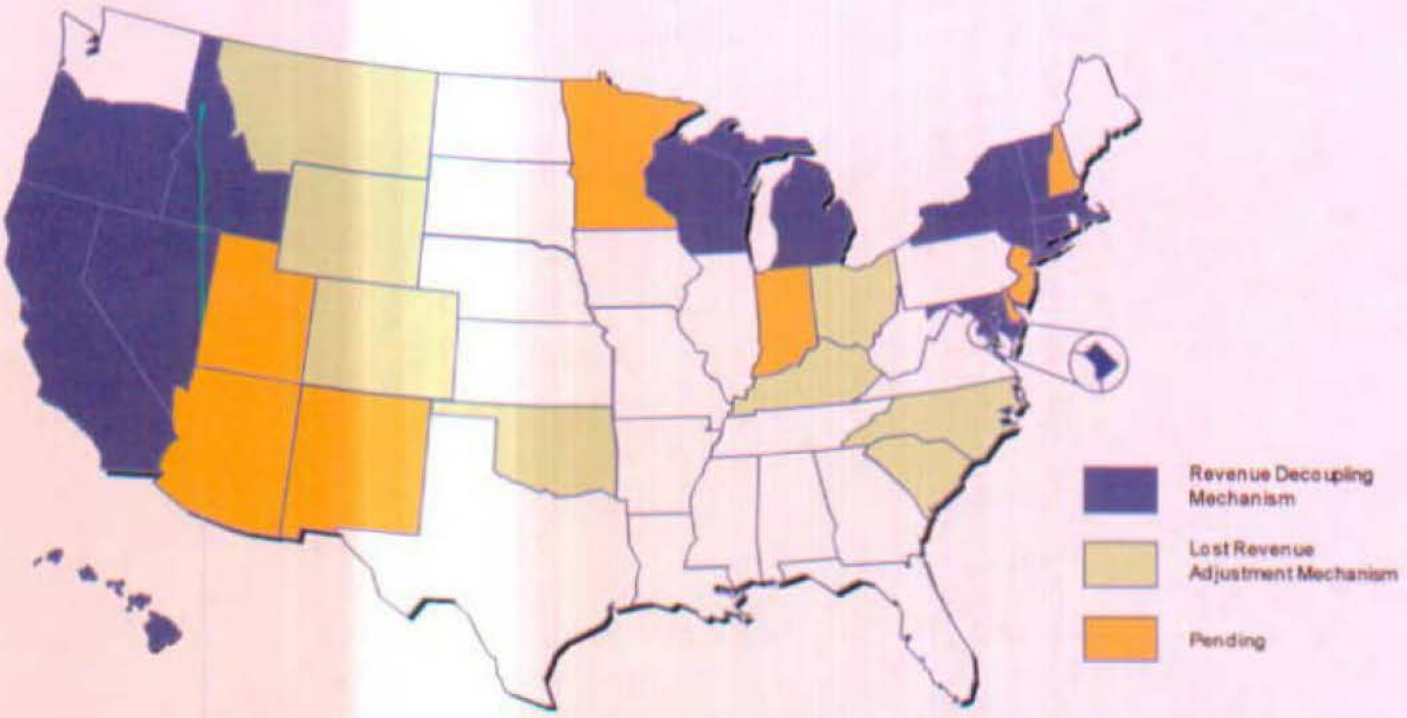
State	Direct Cost Recovery			Fixed Cost Recovery		Performance Incentives	Virtual Power Plant
	Rate Case	System Benefits Charge	Tariff Rider/ Surcharge	Decoupling	Lost Revenue Adjustment Mechanism		
Alabama	Yes						
Alaska							
Arizona		Yes	Yes	Pending		Yes	
Arkansas			Yes				
California	Yes	Yes		Yes		Yes	
Colorado	Yes		Yes		Yes	Yes	
Connecticut		Yes		Yes		Yes	
Delaware	Yes			Pending			
District of Columbia	Yes	Yes		Yes			
Florida			Yes				
Georgia	Yes		Yes			Yes	
Hawaii	Yes			Yes		Yes	
Idaho			Yes	Yes		Pending	
Illinois			Yes				
Indiana			Yes	Pending			Pending
Iowa			Yes				
Kansas	Yes					Pending	
Kentucky			Yes		Yes	Yes	
Louisiana	Yes						
Maine		Yes					
Maryland			Yes	Yes			
Massachusetts		Yes		Yes		Yes	
Michigan			Yes	Yes		Yes	
Minnesota	Yes		Yes	Pending		Yes	
Mississippi	Yes						
Missouri	Yes						
Montana		Yes			Yes	Pending	
Nebraska							
Nevada	Yes			Yes			
New Hampshire		Yes		Pending		Yes	
New Jersey		Yes		Pending			

State	Direct Cost Recovery			Fixed Cost Recovery		Performance Incentives	Virtual Power Plant
	Rate Case	System Benefits Charge	Tariff Rider/ Surcharge	Decoupling	Lost Revenue Adjustment Mechanism		
New Mexico			Yes	Pending		Yes	
New York		Yes		Yes		Pending	
North Carolina			Yes		Yes	Yes	Yes
North Dakota							
Ohio			Yes		Yes		Yes
Oklahoma			Yes		Yes	Yes	
Oregon		Yes		Yes			
Pennsylvania	Yes		Yes				
Rhode Island		Yes				Yes	
South Carolina		Yes			Yes	Yes	Yes
South Dakota			Yes			Yes	
Tennessee							
Texas	Yes		Yes			Yes	
Utah	Yes		Yes	Pending	Pending	Pending	
Vermont		Yes		Yes		Yes	
Virginia							
Washington		Yes	Yes				
West Virginia							
Wisconsin	Yes		Yes	Yes		Yes	
Wyoming			Yes		Yes (MDU)		

Please note that although information in this document was compiled from primary sources, readers are encouraged to verify the most recent developments by contacting the appropriate commission or regulatory agency.

For inquiries, please contact TD Smith, Assistant to the Executive Director, at tsmith@edisonfoundation.net. For further information, please visit http://www.edisonfoundation.net/IEE/.

Lost Revenue Adjustment & Revenue Decoupling Mechanisms for Electric Utilities by State



State	Description	Status	Codes, Orders & Resources
Arizona	In 2008, the Arizona Corporation Commission opened an investigatory docket to explore incentives for gas and electric utilities under current rate-of-return regulation to determine if those incentives produce behavior consistent with the Commission's policy goals. Specifically, the docket addresses how adjustment clauses affect utility incentives, whether regulatory incentives could be changed to align utility financial incentives with energy efficiency investment, and the incentives involved in competitive bidding and utility buy-or-build decisions.	Pending	Dockets E-00000J-08-0314 & G-00000C-08-0314
California	California has had some form of decoupling since 1982. The current "decoupling plus" program is a revenue decoupling program combined with performance incentives for meeting or exceeding energy efficiency targets (performance-based rates). Revenue requirements are adjusted for customer growth, productivity, weather, and inflation on an annual basis with rate cases every three or four years (varies by utility). The incentive structure caps penalties/earnings for energy efficiency programs at $450M.	Approved (Decoupling "Plus" approved in 2007)	Code Sec. 9 Section 739(3) and Sec. 10 Section 739.10 as amended by A.B. XI 29; Decisions 98-03-063 & 07-09-043

IEE STATE ELECTRIC EFFICIENCY REGULATORY FRAMEWORKS

State	Description	Status	Codes, Orders & Resources
Colorado (LR)	A conditional portion of the performance incentive mechanism in Colorado (see p. 12) allows for Xcel to recover a $2M after-tax, "disincentive offset" payment for achieving greater than 80% of the annual energy savings goal.	Approved (2007)	HB-07-1037; Decision C08-560, Docket 07A-420E
Connecticut	As of 2007, all electric and gas utilities must include a decoupling proposal as a part of their individual rate cases. The type of decoupling is assigned on a utility-by-utility basis. United Illuminating is using a full decoupling mechanism, adjusted annually as a pilot. Connecticut Light & Power was denied a full decoupling mechanism in its last rate case and will continue decoupling through rate design.	Approved (2007)	Public Act No. 07-242
Delaware	The Delaware Commission has recognized decoupling as a possible solution for promoting energy efficiency, but no plans have yet been approved for Delaware utilities. Delmarva Power will submit their decoupling plan in the next rate case in 2009.	Pending	Docket 59
District of Columbia	The DC Public Service Commission approved PEPCO's Bill Stabilization Adjustment (BSA) in October 2009. Like the BSA approved for Maryland, an RPC mechanism is employed which adjusts quarterly.	Approved (2009)	PSC Order 1053-E-549
Hawaii	The Hawaii PUC approved decoupling as a policy in February 2010, but a final order is pending. The utilities have submitted a proposed mechanism which allows for decoupling of revenues from sales, rate base adjustments for O&M costs and planned capital additions, and a mechanism for sharing earnings with rate payers should a company exceed their allowed ROE. True-ups occur annually.	Approved - Pending Final Order	Docket 2008-0274
Idaho	A three year pilot for a fixed-cost adjustment (an RPC decoupling program) has been instituted and is currently employed by Idaho Power Company. Sales are adjusted for weather and rate increases are capped at 3% over the previous year. The mechanism is only applied to residential and small general service customers.	Approved - Pilot (2007)	PUC IPC-E-09-07, Order No. 30829
Indiana	The Utility Regulatory Commission recently approved Vectren's alternative regulatory plan, which included requests for performance incentives and lost revenue recovery. Vectren's decoupling proposal was rejected, but the commission did request that an alternative lost revenue proposal be submitted. Northern Indiana Power & Light and Indianapolis Power & Light have both proposed lost margin recovery mechanisms and both are pending before Commission.	Pending	Cause No. 43427
Kentucky (LR)	Lost revenue recovery mechanisms are determined on a case-by-case basis, but all electric utilities in Kentucky have DSM proposals in place that include similar lost revenue (LR) recovery due to DSM programs. For these utilities, LR is calculated using the marginal rate, net of variable costs, times the estimated kWh savings from a DSM measure over a three-year period.	Approved (2006)	Statute Ch. 278, Title 285; Docket 2007-00477; 2008-00473

State	Description	Status	Codes, Orders & Resources
Maryland	A plan to employ revenue decoupling for Maryland utilities under an RPC mechanism was approved in 2007, which adjusts quarterly. The mechanism is similar to the BSA approved for Washington, DC.	Approved (2007)	PSC Case No. 9093; Order 81518
Massachusetts	Gas and electric utilities in Massachusetts must include a decoupling proposal in their next rate case. Target revenues are determined on a utility-wide basis (full decoupling) and can be adjusted for inflation or capital spending requirements if necessary. The Massachusetts DPU expects that all utilities will have fully operational decoupling plans by 2012. In May 2009, National Grid was the first utility to submit a revenue decoupling ratemaking plan (RDR), which proposes an RPC mechanism that adjusts annually.	Approved (2008), full implementation by 2012	Docket 07-50; Docket 09-39
Michigan	Act 295 mandates that the Commission consider decoupling mechanisms proposed by the state's electric utilities. Consumers Energy and Detroit Edison have included decoupling proposals in the rate cases currently before the Commission. A decision in each case is expected in late 2009 or early 2010. Detroit Edison' s proposal for a revenue decoupling mechanism was approved by the Commission in January 2010. The mechanism normalizes lost revenues for weather and have separate adjustments for each customer class.	Approved (2010)	Act 295; Case U-15768 and U-15751
Minnesota	A decoupling statute was passed in 2007 that allows for electric and gas utilities to implement decoupling pilot programs of no more than three years. Under the order, utilities intending to implement decoupling programs are required to file a decoupling pilot plan to the state PUC (none submitted to date). Annual status reports are to be given to the state legislature once the programs are in place.	Pending	Statute 216B.2412
Montana (LR)	In December 2005, the MT PSC approved Northwestern Energy's petition for a lost transmission and distribution revenue recovery mechanism. Under the mechanism, lost revenues due to DSM acquisition efforts are factored into rates monthly as part of Northwestern's default supply cost tracker. The estimated lost T&D revenue amount is then trued-up annually based on actual program activity following a comprehensive program evaluation and independent verification of actual savings, which must be filed with the Commission. NWE must consult with its advisory committee on the selection of an independent contractor to evaluate DSM programs and the scope of work.	Approved (2005)	Dockets D2004.6.90 and D2010.5.50
Nevada	In June 2010, the Nevada PUC approved NV Energy's proposal for a decoupling mechanism to recover lost revenues. Approved to implement the legislative directives of S.B. 358 (section 11.3), the mechanism calls for monthly lost revenue trackers with an annual true-up subject to measurement and verification of effects on utility revenue caused or created by energy efficiency and conservation programs.	Approved (2010)	Docket 09-07016 and S.B. 358

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State	Description	Status	Codes, Orders & Resources
New Hampshire	The New Hampshire PUC concluded in a January 2009 order that existing rate mechanisms are a barrier to energy efficiency. It has ordered that future rate mechanisms be tailored to individual utilities and be normalized for changes in weather, while not specifying the parameters of those mechanisms.	Pending	Order DE 07-064
New Jersey	Atlantic City Electric has proposed a RPC mechanism, or Bill Stabilization Agreement (BSA) as proposed, for their service territory. It is an RPC mechanism that calls for monthly true-ups with changes capped at 10% of previous fixed revenue amounts.	Pending	Docket Eo09010056
New Mexico	HB 305 was signed into law in 2008, requiring that all utilities "include all cost-effective energy efficiency and load management programs in their energy resource portfolios, and that regulatory disincentives to public utility development of cost-effective energy efficiency and load management be removed." As a result, the NM Public Regulation Commission is considering proposals for a lost revenue adjustment mechanism that would compensate the utilities based on lost margins through 2010, at which time the PRC may act to remove disincentives to EE through decoupling or other mechanisms. An order was issued in Case 08-00024-UT in April 2010 that provides incentives but does not adopt a decoupling or other lost revenue mechanism (see the incentives summary for more information on the incentive mechanism). The implementing rules were effective May 2010. Two parties have appealed this order. In its electric rate case filed on June 1, 2010, PNM proposed a decoupling mechanism, which is pending approval.	Pending	Dockets 08-00024-UT and 10-00086-UT
New York	Following an April 2007 order, electric and gas utilities must file proposals for true-up based decoupling mechanisms in ongoing and new rate cases. Proposals have been approved for Consolidated Edison and Orange & Rockland utilities, both for revenue-per-class mechanisms. True-ups occur annually.	Approved (2007)	Cases 03-E-0640, 07-E-0949, & 07-E-0523
North Carolina (LR)	The Commission approved a proposed lost revenue adjustment mechanism for Progress Energy Carolinas as part of their cost recovery mechanism. Net lost revenues for each annual period are recovered over 3 years and determined by multiplying lost sales by a net lost revenue rate, which is the difference between the average retail rate applicable to the customer class impacted by the measure and (1) the related customer charge component of that rate, (2) the fuel component of the rate, and (3) the incremental variable O&M rate. True-ups occur annually. The Commission also approved a similar mechanism for Duke Energy Carolinas in December 2009 for energy efficiency measures only, coinciding with the approval of the utility's virtual power plant mechanism.	Approved (2009)	Docket E-2, Sub 931; Docket E-7, Sub 831

State	Description	Status	Codes, Orders & Resources
Ohio (LR)	As with Kentucky, lost revenue recovery mechanisms are determined on a case-by-case basis. Duke Energy Ohio recovers lost revenues resulting from their portfolio of EE programs through the DSM rider. LR is calculated as the amount of kWh sales lost due to the DSM programs times the energy charge for the applicable rate schedule, less variable costs, divided by the expected kilowatt-hour sales for the upcoming 12 month period. They are collected over a 36 month period. DP&L currently has a case pending. AEP Ohio chose not to seek LR in their prior rate case.	Approved (2007)	ORC §4928.143(B)(2)(h); 06-0091-EL-UNC
Oklahoma (LR)	OG&E has direct lost revenue adjustment ("Class Lost Revenue Factor") built in to the approved demand program rider (DPR) structure, which includes a shared savings mechanism (see p. 15). As the name implies, LR amounts are examined by customer class.	Approved (2009)	Cause No. PUD 200800059, Order 556179
Oregon	Portland General Electric was approved for a two year pilot employing an RPC decoupling mechanism. True-ups will occur annually.	Approved - Pilot (2009)	Order 09-020
South Carolina (LR)	The Commission approved a proposed lost revenue adjustment mechanism for Progress Energy Carolinas as part of their cost recovery mechanism. Net lost revenues for each annual period are recovered over 3 years and determined by multiplying lost sales by a net lost revenue rate, which is the difference between the average retail rate applicable to the customer class impacted by the measure and (1) the related customer charge component of that rate, (2) the fuel component of the rate, and (3) the incremental variable O&M rate. True-ups occur annually.	Approved (2009)	Docket 200-251-E
Utah	HJR 9 was passed into law (March 2009), which includes language supporting decoupling: "[T]he legislature expresses support for regulator mechanisms, which might include performance-based incentives, decoupling fixed cost recovery from sales volume, and other rate designs intended to help remove utility disincentives and create incentives to increase efficiency and conservation... ."	Pending - Law passed, mechanisms yet to be proposed	HJR009
Vermont	An RPC decoupling program was approved for Green Mountain Power under the Alternative Regulation Plan. Rates can be adjusted up to four times per year with an annual reconciliation on allowed earnings. Changes in base rates cannot exceed ~2% per year. CVPS was also approved for decoupling in 2008.	Approved (2007)	Dockets 7175, 7176 & 7336
Wisconsin	Decoupling was approved for WPSC in December 2008 (specified as a "Revenue Stabilization Mechanism"), allowing the utility to pursue a four-year pilot program. WPSC is required to pursue three community-based pilots, which will be regularly reviewed (at 2, 12, 24, and 30 months). True-ups occur annually and over- or under-collection is capped at approximately $14 million.	Approved - Pilot (2008)	Dockets 6680-UR-116 (WPL) & 6690-UR-119 (WPSC)

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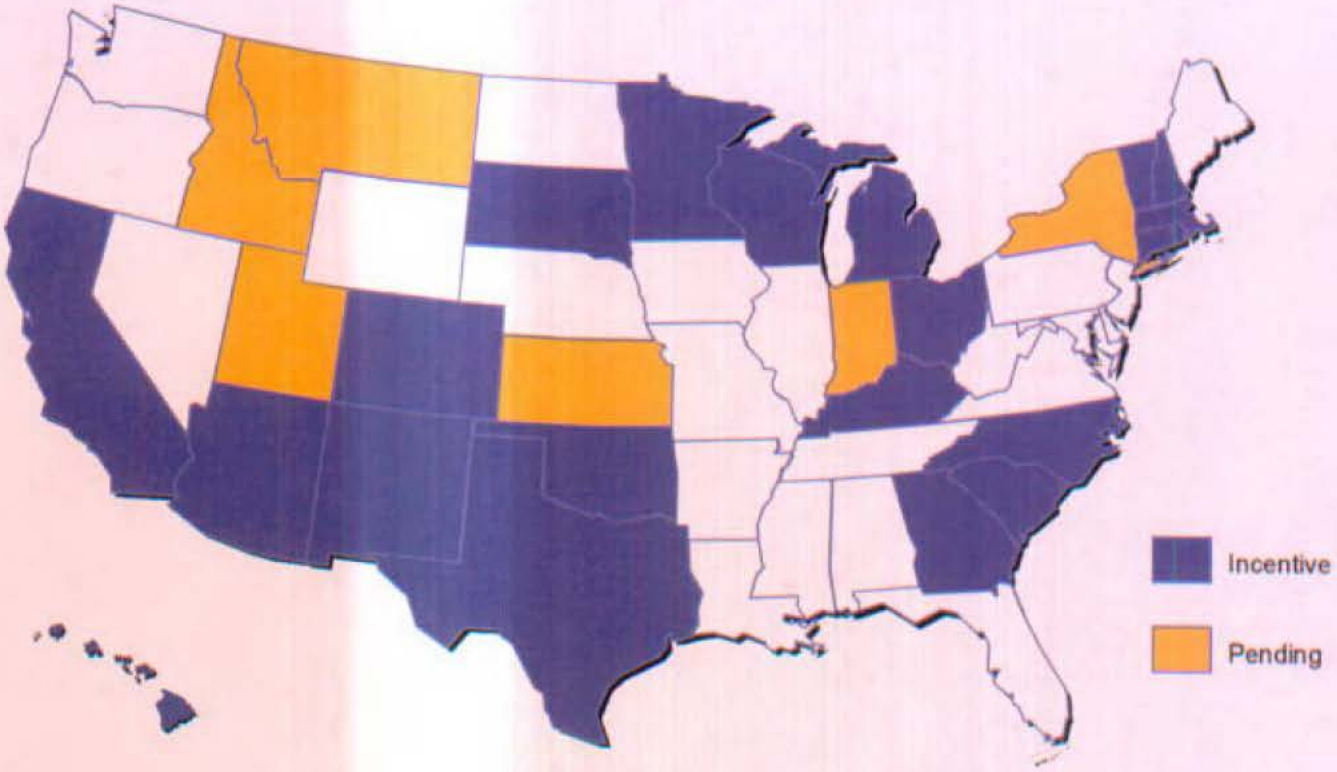
State	Description	Status	Codes, Orders & Resources
Wyoming (LR)	A tracking adjustment mechanism that includes direct lost revenue recovery was approved for a small service territory covered by Montana Dakota Utilities. The adjustment applies to all MDU customers to recover costs and lost revenues for load management programs only.	Approved (2007)	Docket No. 20004-65-ET-06

The table of lost revenue recovery mechanims for electric utilities was prepared by the Institute for Electric Efficiency using the latest public data available as of July 7th, 2010. Readers are encouraged to verify the most recent developments in decoupling by contacting the appropriate state regulator or commissioner's office.

For inquiries, please contact TD Smith, Assistant to the Executive Director, at tsmith@edisonfoundation.net. For further information, please visit http://www.edisonfoundation.net/IEE/.

Performance Incentives for Electric Efficiency by State



State	Performance Incentive Description	Status	Relevant Statute, Code or Order
Arizona	Arizona Public Service (APS) has performance incentives in place under a shared savings mechanism, set at 10% of DSM program net economic benefits and capped at 10% of total DSM expenditures. An APS proposal to modify the incentive mechanism in 2008 requesting recovery of net lost revenues as well as removal of the cap on the incentive was denied.	Approved (2005)	Decision 67744, Docket E-01345A-05-0816, et al
California	California utilities earn an incentive on energy efficiency programs under a shared savings mechanism called an energy efficiency risk-reward incentive mechanism. Revenue from eligible energy efficiency programs is the product of the Earnings Rate (ER) and net benefits. The ER is 12% if the utility achievement towards CPUC goals is greater than 100%, 9% if the goal achievement is between 85 and 100% and 0% if the goal achievement is between 65 and 85%; if the achievement of goals is less than 65%, the utility pays a penalty. Net benefits are calculated as two-thirds of the TRC Net Benefit and one-third of the PAC Net Benefit. In January 2009, the CPUC instituted a rule making (09-01-019) to examine and reform the EE incentive mechanism.	Approved (2007)	R.06-04-010; 09-01-019

State	Performance Incentive Description	Status	Relevant Statute, Code or Order
Colorado	HB 07-1037 (C.R.S. §40-3.2-104) requires investor-owned electric utilities to achieve at least 5% percent reduction of retail energy sales and capacity savings by 2018, based on 2006 sales. The law further states that the Commission shall allow electric DSM investments an opportunity to be more profitable to the utility than any other utility investment that is not already subject to an incentive. The Commission approved the following incentive package to Public Service Colorado: - A "disincentive offset" of $2m/year (after tax) for each year approved DSM plan implemented to offset lost margins; if < 80% of yearly energy goal achieved, the offset may be reduced. - Performance incentives for surpassing "modest" goals; for each 1% of goal reached beyond 80%, company to earn additional 0.2% of net economic benefits, up to 10% at 130% of goal attainment, up to 12% at 150% of goal attainment. Incentives adjusted for 2009 to reflect least-cost planning commitments. - Incentives are allowed via annually trued up DSM Cost Adjustment and are capped at 20% of total annual DSM expenditures.	Approved (2007)	HB-07-1037; Decision C08-560, Docket 07A-420E
Connecticut	The CT PUC requires annual hearings for utilities, where the past year's results for energy savings are reviewed and a performance incentive is determined, which ranges from 1% to 8% of program costs. The minimum threshold of 70% of goals earns the minimum (1%) incentive. Reaching 100% of goals earns 5%, and for reaching 130% of goals earns 8%.	Approved (first in 1988, mechanism changes over time)	Docket 07-10-03
Georgia	Georgia Power will receive an additional sum of 10% of the NPV of the actual net benefits of gross kWh savings (as determined by the Program Administrator test) from certified DSM programs, if they achieve annual incremental kWh savings of more than 50% of projections. If programs achieve less than 50% of projected kWh savings, the additional sum is 0.5% of NPV of net benefits for demand response measures and 3% of NPV of net benefits for energy efficiency measures. There is no cap to the incentive payments, however, if the incentive sum exceeds program costs, the portion of the total that exceeds the program cost is 5% of NPV of actual net benefits of gross kWh savings from the certified DSM programs (as detemined by the Program Administrator test).	Approved (2010)	Order Docket 31082
Hawaii	As part of the state's transition plan to establish a third-party administrator for efficiency programs, the HECO companies are responsible for administering their own DSM programs until the transition date. HECO may earn a shared percentage of savings of 1%-5% with an incentive cap of $2M.	Approved (2008)	Docket & Order 23258, Docket 2007-0323

State	Performance Incentive Description	Status	Relevant Statute, Code or Order
Idaho	Idaho Power (IPC) was approved for a three-year pilot beginning in January 2007 and ending in December 2009. Under the pilot, the Company receives an incentive payment if the market share of homes constructed under the ENERGY STAR Homes Northwest program exceeds a target percentage of new homes constructed. IPC earns an incentive if the program exceeds the market share goal (7% in 2007, 9.8% in 2008, 11.7% in 2009). Incentives are capped at 10% of program net benefits. Penalties are levied if IPC does not meet a minimum market share percentage. On May 14, 2009, it was ordered that Idaho Power neither earn an incentive nor incur a penalty for the ENERGY STAR related program and that the pilot program be discontinued retroactively as of January 1, 2009.	Approved - Pilot (2007); Discontinued (Jan. 1, 2009)	IPC-E-06-32, Order 30268; IPC-E-09-04
Indiana	The state statute allows for either shared savings or adjusted/ bonus ROE mechanisms as DSM incentives. Duke Energy has submitted a proposal for an avoided cost recovery charge for EE programs. Vectren Energy Indiana, Northern Indiana Public Service Company (NIPSCO), and Indianapolis Power and Light have also filed DSM plans requesting performance incentives. All cases are currently pending.	Pending	Administrative Code, Title 170, Art. 4; Cause No. 43374; Cause No. 43427; Cause No. 43618; Cause 43623
Kansas	The State Corporation Commission found that it has "broad authority to provide incentives for energy efficiency" in 2007, but did not specify a mechanism in that order. Kansas Statute 66-117 allows a return of 0.5% to 2% on energy efficiency investments above the allowed rate of return. No plans have yet been approved for any utilities.	Pending; law in place, no programs approved	Docket 08-GIMX-441-GIV; Statute 66-117
Kentucky	State law allows for shareholder incentives through the DSM statute, specifically "incentives designed to provide positive financial rewards to a utility to encourage implementation of cost-effective demand-side management programs." Incentive mechanisms are approved on a case-by-case basis and both Duke Energy and Kentucky Power (AEP) have a shared savings mechanism in place where they receive an incentive of up to 10% of program costs for exceeding goals.	Approved (2007)	Rev. Stat. 278.285(1) (c); Docket 2008-00473; 2007-00477
Massachusetts	The incentive allows utilities to earn about 5% of program costs for energy efficiency programs that meet established program goals. The incentive structure is determined on a program-by-program basis but generally utilizes a three-tiered structure. The first "design performance" level is defined as performance that a Program Administrator expects to achieve in implementing its energy efficiency programs. The second "threshold performance" level is 75% of the design level. The third "exemplary performance" level is 125% of the design level. Incentives are awarded only if a program achieves the threshold level or above.	Approved (2000)	Docket 04-11; Order 98-100

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State	Performance Incentive Description	Status	Relevant Statute, Code or Order
Michigan	The Commission approved DTE's energy optimization plan in 2009, which includes an incentive mechanism that allows the utility to earn up to 15% of program spending (a cap mandated by PA 295) if they reach 125% of their savings goals. An incentive payment is applied only if DTE exceeds its savings goal. PA 295 contains two provisions authorizing utilities to receive an economic incentive for energy efficiency programs. To be eligible, utilities must request that appropriate energy efficiency program costs be capitalized and earn a normal rate of return. Utilities can request a performance incentive mechanism to provide additional earnings to shareholders if they exceed the annual energy savings target. Incentives are capped at 15% of the total program cost.	Approved (2009)	PA 295 (2008); U-15806
Minnesota	The PUC revised the performance incentive originally approved in 1999. Under the new agreement, utilities retain a portion of net benefits based on the level of achievement, measured as a percent of retail sales. The award scale for this modified shared savings mechanism is calibrated to award $0.09/kWh at 1.5% of sales (e.g. if a utility achieves savings equal to 1.5% of sales, it will receive $0.09 for every kWh saved. The order was approved in January 2010.	Approved (1999); Revised mechanism (2010)	Docket CI-08-133, Statute 216B.241
Montana	MT statute allows for the Public Service Commission to add 2% to the authorized rate of return for DSM investments. It has not yet been approved for a specific utility.	Passed into law, but not implemented by utility	Code 69-3-712
New Hampshire	There are two separate incentives in NH. The cost-effectiveness incentive is awarded for programs that achieve a cost effectiveness ratio of 1.0 or higher. The incentive is calculated as 4% of the planned EE budget times the ratio of actual to planned cost effectiveness. The energy savings incentive is awarded when actual lifetime kWh savings are greater than or equal to 65% of projected savings. The incentive is 4% of the planned EE budget times the ratio of actual to planned energy savings. Target incentive amounts are calculated separately for residential and commercial/industrial sectors and are capped at 12% of the planned sector budgets.	Approved (2000)	Order 23.574
New Mexico	In April 2010, the PSC approved a rule making that allows utilities to receive an incentive of between $.01 and $.005 per kWh saved and $10 per kW saved for EE. Utilities must file rate designs and ratemaking methods to remove regulatory disincentives to energy efficiency acquisition by July 2010. Additionally, HB 305 was passed in 2008 which requires all utilities to "include all cost-effective energy efficiency and load management programs in the energy resource portfolios, and that regulatory disincentives to public utility development of cost-effective energy efficiency and load management be removed."	Approved (2010)	Case 08-00024-UT; NM HB 305

State	Performance Incentive Description	Status	Relevant Statute, Code or Order
New York	New York has recently allowed for performance incentives to be included in utility rate cases and the Commission is in the process of reviewing energy efficiency plans of several NY utilities. The order caps the aggregate incentives at $40M per year statewide and target megawatt-hours will be set for each year at the time of review for the EE plans.	Pending	Case 07-M-0548
North Carolina	North Carolina state law states that a utility may propose incentives for demand side management or energy efficiency programs to the Commission for consideration. The commission approved Progress Energy Carolina's incentive mechanism that allows for an incentive of 8% of NPV of benefits from DSM programs and 13% of NPV from EE programs. The Commission is considering an avoided cost recovery mechanism submitted by Duke Energy. The Commission issued a notice of decision approving Duke Energy Carolinas' Save-a-Watt program in December 2009 with a full decision to follow in January 2010. The program is similar to that in Ohio, where Duke will receive 50% of the net present value (NPV) of the avoided costs for conservation and 75% of the NPV for demand response.	Approved - Progress Energy Carolinas (2009), Duke Energy (2009)	Docket E-2, sub 931; Docket E-7, Sub 831
Ohio	Duke Energy received approval in December of 2008 for its proposed "Save-a-Watt" program, where the utility will receive 50% of the NPV of the avoided costs for energy conservation and 75% of the NPV of the avoided costs for demand response. Demand response programs are viewed by the parties as having a useful life of 1 year, while energy conservation programs have useful lives of up to 15 years.	Approved (2008)	Docket 08-920-EL-SSO
Oklahoma	A shared savings program has been approved for Public Service Oklahoma (AEP) which allows for two different returns: an incentive of 25% of net savings for programs for which savings can be estimated and 15% of the costs for other programs (e.g. education and marketing programs). OG&E also has an incentive mechanism where they receive shared benefits for achieving savings goals, calculated on a measure-by-measure basis. The utility may earn up to 25% for each measure where the TRC > 1.0 and up to 15% for each measure where the TRC < 1.0.	Approved - PSO (2008), OG&E (2009)	Cause No. PUD 200700449, Order 555302; Cause No. PUD 200800059, Order 556179
Rhode Island	The shareholder incentive mechanism includes two components: performance-based metrics for specific program achievements, and kWh savings targets by sector. The program performance metrics are established for each individual program, such as achieving specific savings or a certain market share for the targeted energy-efficient technology. If Narragansett (d/b/a National Grid) achieves the savings goal, it receives 4.4% of the eligible budget. The threshold performance level is 60% of the savings goal. Once the threshold level has been reached, the utility has the ability to earn an additional incentive per kWh saved up to 125% of target savings. Incentive rates change by customer class.	Approved (2005)	Docket 3635, Order 18152

State	Performance Incentive Description	Status	Relevant Statute, Code or Order
South Carolina	South Carolina law stipulates that the PSC "may adopt procedures that encourage electrical utilities [...] to invest in cost-effective energy efficient technologies and energy conservation programs." The commission approved Progress Energy Carolina's incentive mechanism that allows for an incentive of 8% of NPV of benefits from DSM programs and 13% of NPV from EE programs. Duke Energy's original avoided cost mechanism was rejected, but the Commission approved the re-submission in January 2010. The mechanism is similar to the Save-a-Watt models in OH and NC, where Duke will receive 50% of the net present value (NPV) of the avoided costs for conservation and 75% of the NPV for demand response.	Approved for Progress Energy Carolinas (2009); Approved for Duke Energy (2010)	Title 58. Public Utilities, Services And Carriers, Chapter 37. Energy Supply And Efficiency; Dockets 2008-251-E (Progress Energy), 2007-358-E, & 2008-251-E (Duke Energy)
South Dakota	In 2006, the SD Commission began solicitiing the state's utilities to offer SD ratepaers energy efficiency programs similar to those offered in other states, indicating a willingness to provide performance incentives. As a result, four utilities (OtterTail, MidAmerican, Montana-Dakota Utilities, and Xcel) filed for Commission approval of energy efficiency riders including incentive mechanisms. In 2008, OtterTail Power received approval for it's energy efficiency programs, with a flat-rate bonus if the utility met it's efficiency goals. In 2009, the Commission approved a similar mechanism for MidAmerican Energy. In 2010, MidAmerican's incentive was amended to a straight return based on a percentage of the program budget. MDU has a similar mechanism.	Approved for Otter Tail Power (2008); Approved for MidAmerican Energy (2009, amended 2010); Approved for Montana-Dakota Utilities.	Dockets EL07-011, EL07-015, GE10-001, and GE09-001
Texas	Texas state code specifies that a utility may be awarded a performance bonus (a share of the net benefits) for exceeding established demand reduction goals that do not exceed specified cost limits. Net benefits are the total avoided cost of the eligible programs administered by the utility minus program costs. The performance bonus is based on the utility's energy efficiency achievements for the previous calendar year. If a utility exceeds 100% of its demand reduction goal, the bonus is equal to 1% of the net benefits for every 2% that the demand reduction goal has been exceeded, up to a maximum of 20% of the utility's program costs. A utility that meets at least 120% of its demand reduction goal with at least 10% of its savings achieved through Hard-to-Reach programs receives an additional bonus of 10% of the bonus calculated.	Approved (2008)	PUC of Texas Substantial Rule §25.181(h); CenterPoint Energy Houston Electric 2008 Energy Plan & Report, Project No. 35440
Utah	HJR 9 was approved in March 2009 and includes language supporting incentives: "[T]he legislature expresses support for regulator mechanisms, which might include performance-based incentives, decoupling fixed cost recovery from sales volume, and other rate designs intended to help remove utility disincentives and create incentives to increase efficiency and conservation... ."	Pending - Law passed but no mechanisms proposed	UT HJR009

State	Performance Incentive Description	Status	Relevant Statute, Code or Order
Vermont	The operator of Efficiency Vermont, VEIC, is eligible to receive a performance incentive for meeting or exceeding specific goals established in its contracts. There is also a holdback in the compensation received by VEIC, pending confirmation that contractual goals for savings and other performance indicators have been achieved. The initial contract (2000-2002) allowed incentives of up to 2% of the overall energy efficiency budget over the three-year contract period. Incentives increased to 3.5% of the EE budget for the 2006-2008 period.	Approved (2000)	Contract 0337956, Attachment C
Wisconsin	As of 2008, Wisconsin Power & Light (Alliant Energy) may earn the same rate-of-return on its investments in energy efficiency made through its "shared savings" program for commercial and industrial customers as it earns on other capital investments. Utilities may propose incentives as part of their rate cases, but there have been no proposals from other utilities under the most recent version of performance incentives. [Note: Wisconsin dropped performance incentives in the 1990s.]	Approved (2008)	Docket 6680-UR-114

Summary of Incentive Mechanisms

Approach	State
Earn a percentage of program costs for achieving savings target	CO, CT, KY, MA, MI, NH, RI, SD, TX, VT
Earn a share of achieved savings	AZ, CA, GA, HI, MN, OK, NM
Earn a percentage of the NPV of avoided costs	NC, OH, SC
Altered rate of return for achieving savings targets	WI

Note: Information on electric efficiency performance incentives was compiled using the latest public data available as of July 7th, 2010. Readers are encouraged to verify the most recent developments by contacting the appropriate commission or regulatory agency. Other resources used in the preparation of this report were ACEEE's State Energy Efficiency Program Database, documents from EPA's National Action Plan on Energy Efficiency, and resources from the Regulatory Assistance Project.

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Aligning Utility Incentives with Investment in Energy Efficiency

A RESOURCE OF THE NATIONAL ACTION PLAN FOR ENERGY EFFICIENCY

NOVEMBER 2007

Schedule WRD-E5

About This Document

This report on *Aligning Utility Incentives with Investment in Energy Efficiency* is provided to assist gas and electric utilities, utility regulators, and others in the implementation of the recommendations of the National Action Plan for Energy Efficiency (Action Plan) and the pursuit of its longer-term goals.

The Report describes the financial effects on a utility of its spending on energy efficiency programs, how those effects could constitute barriers to more aggressive and sustained utility investment in energy efficiency, and how adoption of various policy mechanisms can reduce or eliminate these barriers. The Report also provides a number of examples of such mechanisms drawn from the experience of utilities and states.

The primary intended audiences for this paper are utilities, state policy-makers, and energy efficiency advocates interested in specific options for addressing the financial barriers to utility investment in energy efficiency.

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Aligning Utility Incentives with Investment in Energy Efficiency is a product of the National Action Plan for Energy Efficiency Leadership Group and does not reflect the views, policies, or otherwise of the federal government. The role of the U.S. Department of Energy and U.S. Environmental Protection Agency is limited to facilitation of the Action Plan.

This document was final as of December 2007 and incorporates minor modifications to the original release.

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List of Abbreviations and Acronyms

A

APS	Arizona Public Service Company

B

BA	balance adjustment
BGE	Baltimore Gas & Electric
BGSS	Basic Gas Supply Service

C

CCRA	conservation cost recovery adjustment
CCRC	conservation cost recovery charge
CET	conservation enabling tariff
CIP	conservation improvement program or Conservation Incentive Program
CMP	Central Maine Power
CPUC	California Public Utilities Commission
CUA	conservation and usage adjustment

D

DBA	DSM balance adjustment
DCR	DSM program cost recovery
DNG	distribution non-gas
DOE	U.S. Department of Energy
DRLS	DSM revenue from lost sales
DSM	demand-side management
DSMI	DSM incentive
DSMRC	demand-side management recovery component

E

ECCR	energy conservation cost recovery
EPA	U.S. Environmental Protection Agency
ER	earnings rate
ERAM	electric rate adjustment mechanism

F

FCA	fixed cost adjustment
FCM	forward capacity market
FEECA	Florida Energy Efficiency and Conservation Act
FPL	Florida Power and Light

H

HECO	Hawaiian Electric Company

I

ISO	independent system operator

K

kW	kilowatt
kWh	kilowatt-hour

L

LG&E	Louisville Gas & Electric
LRAM	lost revenue adjustment mechanism

M

MW	megawatt
MWh	megawatt-hour

List of Abbreviations and Acronyms (continued)

N

NARUC	National Association of Regulatory Utility Commissioners
NJNG	New Jersey Natural Gas
NJR	New Jersey Resources
NJRES	NJR Energy Services
NSP	Northern States Power Company

O

O&M	operation and maintenance

P

PBR	performance-based ratemaking
PEB	performance earnings basis
PG&E	Pacific Gas & Electric Company

R

RAP	Regulatory Assistance Project
ROE	return on equity

S

SFV	Straight Fixed-Variable
SJG	South Jersey Gas

U

UCE	Utah Clean Energy

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