

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

4 CSR 240-20.092 Electric Utility Demand-Side Programs Investment Mechanisms

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

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

(A) All cost-effective demand-side savings goals are ~~the greater of~~ the maximum achievable energy savings and demand savings as determined through a utility market potential study or the incremental annual energy savings goals and incremental annual demand savings goals in 4 CSR 240-20.093(2).

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

(C) Annual demand savings target means the amount of annual demand savings from a utility's approved demand-side programs established by the commission in a utility's ~~general rate~~ demand-side program plan proceeding for the purpose of determining a utility's demand-side programs performance level ~~in a subsequent general rate proceeding of the utility.~~

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

(E) Annual energy savings target means the amount of annual energy savings from a utility's approved demand-side programs as established by the commission in a utility's ~~general rate~~ demand-side program plan proceeding for the purpose of determining a utility's demand-side programs performance level ~~in a subsequent general rate proceeding of the utility.~~

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

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

~~(H) Annual net shared benefits means annual~~

(G) Approved demand-side program means a demand-side program or demand-side program pilot which is approved by the commission in accordance with 4 CSR 240-20.093(3) or 4 CSR 240-20.093(4).

(H) Cost recovery component of DSIM means revenue requirement approved by the commission in a general rate proceeding to recover projected or historical costs for demand-side programs including interest.

(I) Customer means any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., that accepts financial and other responsibilities in exchange for services from one (1) or more public utilities.

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

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

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

(M) Demand savings target means the expected reduction in a utility's peak demand relative to the baseline peak demand forecast approved by the commission in a general rate proceeding for the purpose of determining the utility's demand-side programs annual demand performance level in a subsequent general rate proceeding.

(N) Demand-side programs investment mechanism or DSIM means a mechanism approved in the utility's prior general rated demand-side program plan proceeding to encourage investments in demand-side programs, The DSIM may include, in combination and without limitation:

1. Projected or historical cost recovery of approved demand-side program cost through direct expensing of investments in demand-side programs, capitalization of investments in demand-side programs, accelerated depreciation of investments in demand-side programs or through a demand-side program cost tracker;

2. Recovery of the historic or projected cost of approved demand-side programs; Recovery of the lost revenues associated with the approved demand-side programs;

3. Accelerated depreciation on demand side investments; and

3. Return on investment at least equal to traditional investments in supply and delivery infrastructure. A utility incentive or penalty based on the achieved performance level of approved demand-side programs Such return shall be at least equivalent to the equity return on rate base utilizing the utility's most recent authorized return on equity;

(O) Demand-side program means any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the meter including, but not limited to, energy efficiency measures, load management, demand response, and interruptible or curtailable load.

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

(Q) DSIM rate means dollar per kilowatt-hour (\$ per kWh) charge on customer's bill for the portion of DSIM revenue requirement assigned by the commission to a customer class.

(R) DSIM revenue requirement means the sum of the DSIM cost recovery revenue requirement and the DSIM utility incentive revenue requirement.

~~(P) DSIM revenue requirement means the sum of the DSIM cost recovery revenue requirement and the DSIM utility incentive revenue requirement.~~

(S) DSIM utility incentive revenue requirement means the revenue requirement approved by the commission in a general rated demand-side program plan proceeding equal to utility annual energy incentive award level times the annual energy net shared benefits of the utility plus the utility annual demand incentive award level times the annual demand net shared benefits of the utility that exceeds the recovery of both demand-side program costs and associated lost revenues by providing a return on investment at least equal to traditional investments in supply and delivery infrastructure. Such return shall be at least equivalent to the equity return on rate base utilizing the utility's most recent authorized return on equity.

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

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

(V) Energy savings target means the expected reduction in a utility's annual energy sales relative to the baseline energy sales forecast approved by the commission in a general rated demand-side program plan proceeding for the purpose of determining the utility's demand-side programs annual energy performance level in a subsequent general rate proceeding.

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

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

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

(Z) Net ~~shared~~ benefits means the net present value of avoided costs less the associated program costs.

(AA) Participants test means

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

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

(DD) Total resource cost test means the test that compares the sum of avoided utility costs plus avoided probable environmental costs to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus utility costs to administer, deliver and evaluate each demand-side programs to quantify the net savings obtained by substituting the demand-side program for supply-side resources.

(EE) Utility cost test means the test that compares the avoided utility costs to the sum of all utility incentive payments, plus utility costs to administer, deliver and evaluate each

demand-side program to quantify the net savings obtained by substituting the demand-side program for supply resources.

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

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

(2) Applications to establish, continue, or modify a DSIM. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility may file an application with the commission to establish, continue or modify a DSIM in a demand side program plan filing to be implemented in a subsequent general rate proceeding.

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

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

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

1. Provide the electric utility with timely recovery for all reasonable and prudent costs of delivering cost-effective demand-side programs where timely cost recovery means that the electric utility shall begin recovery of its DSIM no later than 12 months after its initial investment expenditures;

2. Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and

3. Provide timely earnings opportunities associated with cost-effective measurable and verifiable energy and demand savings where timely earnings opportunities mean that the electric utility shall begin accrual of carrying costs effective with the first month subsequent to the expenditure based on an equal basis to the utility's last authorized rate of return in a company's rate case.-

(D) To value demand-side program investments equal to traditional supply and delivery investments, three financial components must be specifically acknowledged and addressed:

1. Recovery of program costs

2. Recovery of lost revenues

3. Comparable return on investment

Any DSIM shall be designed to address these financial components in order to meet the objective to encourage utility investment in demand-side programs and align financial incentives.

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

(E) In determining to approve, modify, or continue a DSIM, the commission shall consider, but is not limited to only considering, the expected magnitude of the impact of the utility's approved demand-side programs on the utility's costs, revenues and earnings, the ability of the utility to manage all aspects of the approved demand-side programs, the ability to measure and verify the approved program impact, and the incentives ~~or disincentives~~ provided to the utility as a result of the inclusion or exclusion of cost recovery component and/or utility incentive component in the DSIM.

(F) The electric utility shall implement the approved DSIM in either a subsequent general rate case or a rider. If a general rate case is chosen, the commission may implement the approved mechanism using interim rates until conclusion of the rate case.

(G) Any cost recovery component of DSIM shall be based on either projected or historical costs of demand-side programs approved by the commission in accordance with 4 CSR 240-20.093(3) and 4 CSR 240-20.093(4). Indirect costs associated with demand-side programs, including but not limited to costs of utility market potential study and/or utility's portion of statewide technical reference manual, shall be allocated to demand-side programs and thus eligible for recovery through an approved DSIM. The commission shall order any DSIM cost recovery revenue requirements in a general ratedemand-side program plan proceeding. Such DSIM for cost recovery shall include, but not be limited to, a Direct Expense Cost Recovery approach and an Expense Amortization Approach.

1. Direct Expense Cost Recovery:

- i. The utility shall establish as part of the Demand-Side Program Plan, program goals and the expected expenses to be incurred over the next three years based on utility-specific DSM potential studies and each utility's respective preferred resource plan results. The average of the expected three-year program expenses will be included in the utility's cost of service. Program goals will establish performance targets and incentives. The Commission may also consider phased rates to accommodate substantial annual expenditure differentials.
- ii. Costs incurred after a Demand-Side Program Plan is approved but before included in customer rates shall be charged to a regulatory asset account and incur a carrying charge. The carrying charge shall be the utilities' current weighted average cost of capital utilizing the most recent authorized return on equity.
- iii. Costs will be adjusted to reflect the difference between the expenses in rates compared to the actual expenses accumulated in the regulatory asset account, documented in the program annual reports and trued-up at the time of the next rate case or with a rider. Actual expenses shall include program adjustments, expenditure timing, new programs introduced or eliminated.

2. Expense Amortization Cost Recovery

- i. The utility shall establish as part of the Demand-Side Program Plan, program goals and the expected expenses to be incurred over the next three years based on utility-specific DSM potential studies and each utility's respective preferred resource plan results. At the time of Demand-Side Investment Mechanism implementation the average of the expected three-year amortization of program expenses and the average of the expected return on rate base, utilizing at least the utility's most recent authorized weighted average cost of capital will be included in the utility's cost of service. The Commission may also consider phased rates to accommodate substantial annual expenditure differentials.
- ii. Costs incurred after a Demand-Side Program Plan is approved but before included in customer rates shall be charged to a regulatory asset account and incur a carrying charge. The carrying charge shall be the utilities' current weighted average cost of capital utilizing the most recent authorized return on equity.
- iii. Costs will be adjusted to reflect the difference between the expenses in rates compared to the actual expenses accumulated in the regulatory asset account, documented in the program annual reports and trued-up at the time of the next rate case or with a rider. Actual expenses shall include program adjustments, expenditure timing, new programs introduced or eliminated.

3. Other Acceptable Cost Recovery Mechanisms

- i. The utility shall also, at its discretion, be permitted to seek cost recovery utilizing other recovery mechanisms including, in combination with those outlined above and without limitation, rate design modifications.
~~The utility shall also, at its discretion, be permitted to seek cost recovery utilizing other recovery mechanisms, 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.~~

(H) Any lost revenue recovery component of DSIM shall be based on either projected or historical lost revenues associated with demand-side programs approved by the commission in accordance with 4 CSR 240-20.093(3) and 4 CSR 240-20.093(4). The commission shall order any DSIM lost revenue recovery revenue requirements in a demand-side program plan proceeding.

1. In either a rider or a subsequent general rate case proceeding that follows the approval of the demand-side program plan, each utility shall seek to recover lost revenues through a lost revenue adjustment mechanism, with a Retention of a Portion of Net Benefits, as detailed below, or with a decoupling mechanism to ensure that the success of its demand-side programs does not cause such utility financial harm and encourages investment in demand-side programs.

2. If a general rate case is used as the mechanism to recover demand-side program costs, the utility shall establish as part of such subsequent rate case the lost revenues to be incurred over the next three years. The average of the expected three-year lost revenues will be included in the utility's cost of service.

i. Lost revenues will be adjusted to reflect the difference between the lost revenues in rates compared to the actual lost revenues accumulated in a regulatory asset account, documented in the program annual reports and trued-up at the time of the next rate case or with a rider.

3. If a rider is used as the mechanism to recover lost revenues, the utility will project the following year's lost revenues and recover such lost revenues, on a concurrent basis throughout the following year.

(I) Any performance incentive component of DSIM shall be based on historical performance associated with demand-side programs approved by the commission in accordance with 4 CSR 240-20.093(3) and 4 CSR 240-20.093(4). The commission shall order any DSIM performance incentive revenue requirement in a demand-side program plan proceeding. Such DSIM for performance incentives shall include, but not be limited to, a Retention of a Portion of Net Benefits Approach.

1. Retention of a Portion of Net Benefits

i. The utility shall determine the present value of the net benefits created by the demand-side programs on an annual basis. Upon completion of a program year, the utility shall seek to receive revenue requirement equal to a portion of the net benefits produced by the demand-side programs such that the annual value of this revenue, at target performance, compensates the utility for average lost revenues (if not recovered via a specific lost revenue recovery mechanism as discussed in Section G above) and the average of the expected return on rate base, utilizing the utility's most recent weighted average cost of capital. The portion of net benefits earned by the utility will be added to the utility's cost of service and such utility's revenue requirement will be adjusted accordingly. Program goals will establish performance targets and incentives for performance above or below such established targets.

ii. The utility shall file proposed performance goals for demand and energy savings from utility implementation of cost-effective demand-side programs. The utility shall provide annual and total goals, by demand-side program, for three years subsequent to the year of the demand-side program plan filing.

iii. Upon approval of a demand-side program plan and in either a subsequent general rate case proceeding or via a rider, a utility may seek to include, as part of its proposed DSIM, a process to improve its earnings opportunity for achievements under its demand-side program plan.

~~—The utility shall file proposed performance goals for demand and energy savings from utility implementation of cost effective demand side programs. The utility shall provide annual and total goals, by demand side program, for three years subsequent to the year of the filing.~~

~~—Upon approval of a Demand-Side Program Plan and in either a subsequent general rate case proceeding or via a rider, each utility may file an application to include, as part of its proposed DSIM a process to improve its earnings opportunity for achievements under its Demand Side Program Plan.~~

~~—If a general rate case is used as the mechanism to recover demand-side program costs, the utility shall establish, as part of a rate case, the performance incentives to be earned over the next three years. Program goals will establish performance targets and incentives. Recovery of performance incentives in rates will occur after they are demonstrated to have been achieved. Any utility's performance incentive will be included in the utility's regulatory asset until rates are adjusted. Any utility incentive component of DSIM shall be based on the pere~~

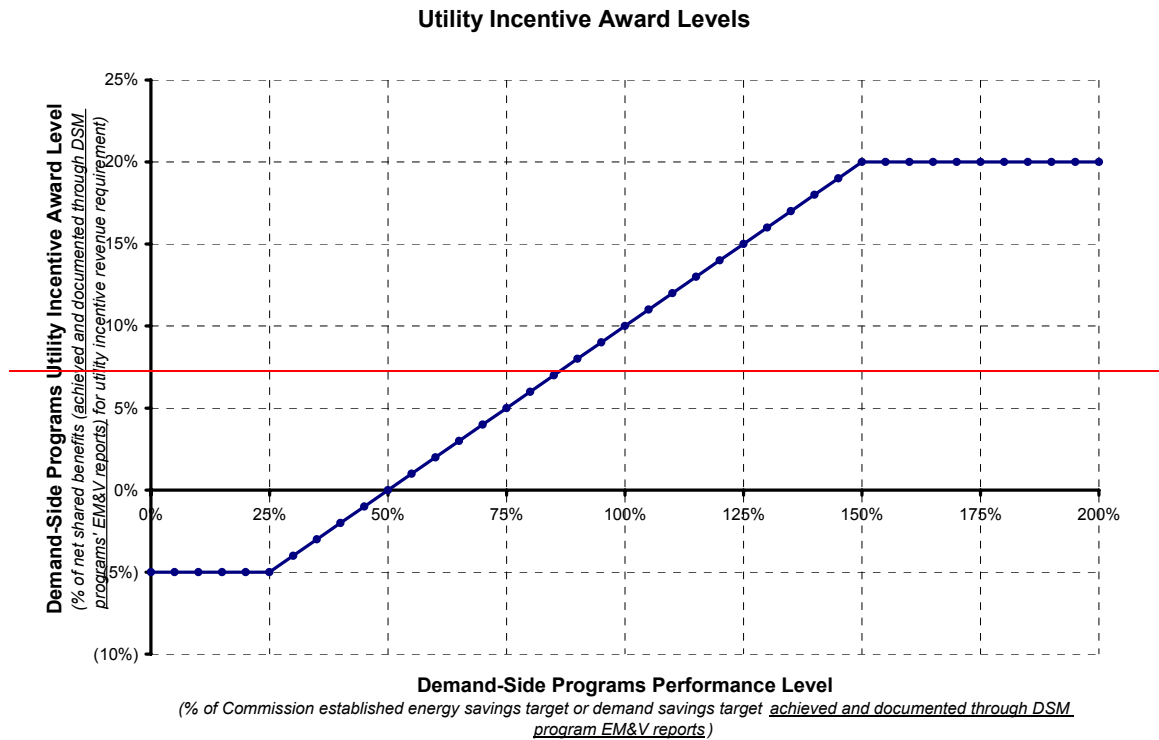
~~(F) If a rider is used as the mechanism to recover performance, the utility will project the following year's performance incentives and recovery such performance incentives on a concurrent basis through the following year. entage of net shared benefits achieved and documented through EM&V reports for approved demand-side programs which have commission-established energy savings targets and/or demand savings targets in accordance with 4 CSR 240-20.093(3)(A).~~

~~1. Approved demand side programs for which a utility shall be eligible for an incentive shall have been determined by the commission for the purpose of this subsection during the electric utility's preceding general rate proceeding.~~

~~2. Annual energy and demand savings targets established by the commission for the DSIM utility incentive component are not the same as the goals for all cost effective demand side savings established by the commission in accordance with 4 CSR 240-20.093(2).~~

~~3. The commission shall order any DSIM utility incentive revenue requirement in a general rate proceeding and the requirement shall be equal to DSIM utility incentive award level times the net shared benefits achieved and documented through EM&V reports for demand side programs which have commission-established energy savings targets and/or demand savings targets.~~

~~4. The utility incentive award level shall be derived from the following chart.~~



(J) A utility application for a DSIM may include a provision to annually adjust the DSIM rates to include the true-up for over-collection and/or under-collection of the DSIM revenue requirement.

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

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

(M) If, as a component of its proposed DSIM, the utility requests a provision to recover costs between general rate proceedings, the utility shall:

1. Include in its initial notice to customers regarding the general rate proceeding, a commission-approved description of how the proposed DSIM requested shall be applied to the monthly bills; and
2. Include as part of its application proposed tariff sheets designed to implement the proposed DSIM.

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

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

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

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

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

(4) Requirements for annual adjustments of DSIM rates, if the commission approves cost recovery between rate cases. ~~[IF IT IS DETERMINED THAT ANNUAL ADJUSTMENTS OF DSIM RATES ARE UNLAWFUL, THE ENTIRE SECTION (4) WILL BE DELETED FROM THIS RULE]~~ When an electric utility files tariff sheets to adjust its DSIM rates between general rate proceedings, the staff shall examine and analyze the information filed by the electric utility in accordance with 4 CSR 240-3.163(8) and additional information obtained through discovery, if any, to determine if the proposed adjustment to the DSIM rates are in accordance with the provisions of this rule, section 393.1075, RSMo and the DSIM ~~established, modified or continu~~approved in the ~~most recent general rate~~demand-side program plan proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff sheets to adjust its DSIM rates. If the DSIM rate adjustment is in accordance with the provisions of this rule, section 393.1075, RSMo, and the DSIM ~~established, modified or continu~~approved in the ~~demand-side program plan~~most recent general rate proceeding, the commission shall issue an interim rate adjustment order approving the tariff sheets and the DSIM rate adjustments shall take effect sixty (60) days after the tariff sheets were filed. If the DSIM rate adjustment is not in accordance with the provisions of this rule, section 393.1075, RSMo, or the DSIM ~~established, modified or continu~~approved in the ~~demand-side program plan~~most recent rate proceeding, the commission shall reject the proposed tariff sheets within sixty (60) days of the electric utility's filing and may instead order implementation of an appropriate interim tariff sheets.

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

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

(C) If the staff, Office of the Public Counsel (OPC) or other party which receives the information that the electric utility is required to submit in 4 CSR 240-3.163(8) and as ordered by the commission in a previous proceeding, believes that the information required to be submitted pursuant to 4 CSR 240-3.163(8) and the commission order ~~establishing, modifying or continu~~approving the DSIM has not been submitted in compliance with that rule, it shall notify the electric utility within ten (10) days of the electric utility's filing of an application or tariff sheets to adjust DSIM rates and identify the information required. The electric utility shall submit the information identified by the party, or shall notify the party that it believes the information submitted was in compliance with the requirements of 4 CSR 240-3.163(8), within ten (10) days of the

request. A party who notifies the electric utility it believes the electric utility has not submitted all the information required by 4 CSR 240-3.163(8) and as ordered by the commission in a previous proceeding and receives notice from the electric utility that the electric utility believes it has submitted all required information may file a motion with the commission for an order directing the electric utility to produce that information, i. e., a motion to compel. While the commission is considering the motion to compel, the processing timeline for the adjustment to increase DSIM rates shall be suspended. If the commission then issues an order requiring the information be submitted, the time necessary for the information to be submitted shall further extend the processing timeline for the adjustment to increase DSIM rates. For good cause shown the commission may further suspend this timeline. Any delay in submitting sufficient information in compliance with 4 CSR 240-3.163(8) or a commission order in a previous proceeding in a request to decrease DSIM rates shall not alter the processing timeline.

(5) Duration of DSIM and requirement for general rate proceeding. Once a DSIM is approved by the commission, it shall remain in effect for a term of not more than four (4) years unless the commission earlier authorizes the modification or discontinuance of the DSIM in a general rate proceeding, although an electric utility may submit proposed tariff sheets to implement interim annual adjustments to its DSIM rates between general rate proceedings.

(A) If the commission approves a DSIM for an electric utility, the electric utility must file a general rate proceeding with the effective date of new rates to be no later than four (4) years after the effective date of the commission order implementing the DSIM, assuming the maximum statutory suspension of the rates so filed.

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

(7) Evaluation, measurement and verification (EM&V) of the process and impact of demand-side programs. Each electric utility shall hire an independent contractor to perform and report EM&V of each commission-approved demand-side program in accordance with 4 CSR 240-20.093(3) or 4 CSR 240-20.093(4). The commission shall hire an independent contractor to audit and report on the work of each utility's independent EM&V contractor.

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

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

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

(C) EM&V draft reports for each approved demand-side program shall be delivered simultaneously to the utility, staff, public counsel and other stakeholders.

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

1. Be completed by the utility's EM&V contractor on a schedule approved by the commission at the time of demand-side program approval; and

2. Be filed with the commission and delivered simultaneously to the utility, staff, public counsel, and other stakeholders.

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

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

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

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

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

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

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

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

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

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

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

(13) Rule review. The commission shall review the effectiveness of this rule by no later than December 31, 2014, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.