

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

**4 CSR 240-20.093 Electric Utility Demand-Side Programs**

*~~Purpose~~**PURPOSE:** This rule sets forth the definitions, requirements and procedures for filing and processing applications for approval, modification, and discontinuance of electric utility demand-side programs. This rule also sets forth requirements and procedures related to customer opt-out, tax credits, monitoring customer incentives and collaborative guidelines for demand-side programs.*

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

(A) Annual demand-side savings goals means incremental annual energy savings goals and incremental annual demand savings goals established by the utility and approved by the commission in 4 CSR 240-20.093(2) as demonstration that an electric utility's demand-side programs are expected to achieve all cost-effective demand-side savings.

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

(C) 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 rated demand-side program plan proceeding for the purpose of determining a utility's demand-side programs performance level in a subsequent demand-side program plan or general rate proceeding of the utility.

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

(E) Customer coincident demand means a customer's coincident highest billing demand of the customer's individual accounts during a 12-month period.

(F) 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.

(G) Demand means the rate of electric power use measured in kilowatts (kW).

(H) 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.

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

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

(K) 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.

(L) Preferred resource plan means the utility's resource plan that is contained in the resource acquisition strategy most recently adopted by the utility's decision makers in accordance with 4 CSR 240-22.

(M) Total resource cost test means-- the test that compares the sum of avoided utility cost 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 program to quantify the net savings obtained by substituting the demand-side programs for supply-side resources.

(2) The commission shall rely on the results from both utility-specific DSM potential studies and each utility's respective preferred resource plan results to establish the baseline for determination of such utility's determination of all cost-effective incremental annual demand-side energy savings and demand savings towards the pursuit of all cost-effective demand-side savings

~~(2) use the greater of the maximum achievable energy savings and demand savings as determined through a utility market potential study or the following incremental annual demand-side savings goals as demonstration that an electric utility's demand-side programs are expected to achieve all cost-effective demand-side savings:~~

~~(A) By 2012: 0.7% of total annual kWh sales and 1.0% of total peak demand;~~

~~(B) By 2013: 0.9% of total annual kWh sales and 1.0% of total peak demand;~~

~~(C) By 2014: 1.1% of total annual kWh sales and 1.0% of total peak demand;~~

~~(D) By 2015: 1.3% of total annual kWh sales and 1.0% of total peak demand;~~

~~(E) By 2016: 1.5% of total annual kWh sales and 1.0% of total peak demand;~~

~~(F) By 2017: 1.7% of total annual kWh sales and 1.0% of total peak demand;~~

~~(G) By 2018: 1.9% of total annual kWh sales and 1.0% of total peak demand; and~~

~~(H) By 2019 and for subsequent years: 2.0% of total annual kWh sales and 1.0% of total peak demand each year.~~

(3) Applications for approval of electric utility demand-side programs. 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 for approval of demand-side programs by filing information and documentation required by 4 CSR 240-3.164(2). The commission shall approve, approve with modification or reject such applications for approval of individual demand-side programs within 30 days of the filing of an application under this section only after providing the opportunity for a hearing. In the case of a utility filing an application for approval of multiple demand-side programs, the commission shall approve, approve with modification or reject such applications within 60 days of the filing of an application under this section only after providing the opportunity for a hearing.

(A) The commission shall approve demand-side programs, associated tariff sheets, annual demand savings targets and annual energy savings targets for demand-side

programs provided it finds that the demand-side programs have total resource cost test ratios greater than one (1.0) and:

1. Are consistent with a goal of achieving all cost-effective demand-side savings;
2. Have a reliable evaluation, measurement and verification ~~plans~~ process;
3. Are likely to result in energy or demand savings as demonstrated through a pilot program or a similar established program at a utility of like size;
4. Are estimated to be beneficial to all customers in the customer class in which the program is proposed, regardless of whether the program is utilized by all customers; and
5. Are included in the electric utility's preferred plan or have been analyzed through the integration process required by 4 CSR 240-22.060 to determine the impact of the demand-side programs on the net present value of revenue requirements of the electric utility.

(B) The commission shall approve demand-side programs and their associated tariff sheets for programs ~~each~~ having a total resource cost test less than one (1.0) for demand-side programs targeted to low-income customers or general education campaigns, if the commission determines that the programs or campaigns are in the public interest, and meet the requirements as stated in subsection (A) 2.-5.

1. If the program is targeted to low-income customers, the electric utility must also state how the electric utility will assess the effect of the program on customer arrearages and disconnections.

(C) The commission shall approve demand-side programs and their associated tariff sheets which have a total resource cost test less than one (1.0), if the costs of such programs above the level determined to be cost-effective are funded by the customers participating in the programs or through tax or other governmental credits or incentives specifically designed for that purpose and meet the requirements as stated in subsection (A) 2.-5.

(4) Applications for approval of modifications to electric utility demand-side programs. 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 for modification of demand-side programs by filing information and documentation required by 4 CSR 240-3.164(3). The commission shall approve, approve with modification or reject such applications for approval of modification of demand-side programs within 30 days of the filing of an application under this section only after providing the opportunity for a ~~full~~ hearing.

~~(A) Relationship to 4 CSR 240-22 Electric Utility Resource Planning. Each All demand-side programs proposed by the electric utility to be modified shall be analyzed through the integration process required by 4 CSR 240-22.060 to determine the impact on the net present value of the revenue requirements of the electric utility.~~

(5) Applications for approval to discontinue electric utility demand-side programs. 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 discontinue demand-side programs by filing information and documentation required by 4 CSR 240-3.164(4). The commission shall approve, approve with modification or reject such applications for

discontinuation of utility demand-side programs within 30 days of the filing of an application under this section only after providing an opportunity for a full hearing.

~~(A) Relationship to 4 CSR 240-22 Electric Utility Resource Planning. Each All demand-side programs proposed by the electric utility to be discontinued shall be analyzed through the integration process required by 4 CSR 240-22.060 to determine the impact of discontinuing the demand side programs on the net present value of the revenue requirements of the electric utility.~~

(6) Provisions for customers to opt-out of participation in utility demand-side programs.

(A) Any customer meeting one or more of the following criteria shall be eligible to opt-out of participation in utility offered demand-side programs:

1. The customer has one or more accounts within the service territory of the electric utility that has a demand of the individual accounts of five thousand (5,000) kWkilowatts or more in the previous twelve months;

A. For utilities with automated meter reading and/or advanced metering infrastructure capability, the measure of demand is the highest coincident billing demand of the individual accounts during the twelve (12) months preceding the opt-out notification.

2. —The customer operates an interstate pipeline pumping station, regardless of size; or

3. The customer has accounts within the service territory of the electric utility that have, in aggregate, a ~~customer~~ coincident demand across accounts of two thousand five hundred (2,500) kWkilowatts or more in the previous twelve months, and the customer has a comprehensive demand-side or energy efficiency program and can demonstrate an achievement of savings at least equal to those expected from utility-provided programs.

A. For utilities with automated meter reading and/or advanced metering infrastructure capability, the measure of demand is the customer coincident highest billing demand of the individual accounts during the twelve (12) months preceding the opt-out notification.

~~4. For utilities with automated meter reading and/or advanced metering infrastructure capability and for purposes of determining eligibility under item 1 above, the measure of demand is the highest billing demand during the 12 months preceding the opt-out notification. For utilities with automated meter reading and/or advanced metering infrastructure capability and for purposes of determining eligibility under item 3 above, the measure of demand is the customer coincident highest billing demand of the individual accounts during the 12 months preceding the opt-out notification.~~

(B) Written notification of opt-out from customer to the utility serving the customer shall include at a minimum:

1. Customer's name;

2. Identification of location(s) and utility account number(s) of accounts for which the customer is requesting to opt-out from demand-side programs benefits and costs; and

3. Demonstration that the customer qualifies for opt-out.

(C) Utility notification of acknowledgement or plan to dispute a customer's notification to opt-out of participation in demand-side programs shall be delivered in writing to the customer and to the commission within ten (10) days of when the utility received the written notification of opt-out from the customer.

(D) Timing and effect of opt-out provisions. A customer notice shall be received by the utility no sooner than October 1 and not later than ~~November 30~~December 1 to be effective for the following calendar year. For that calendar year and each such calendar year until the customer revokes the notice pursuant to subsection (F), none of the costs of approved demand-side programs of an electric utility offered pursuant to 4 CSR 240-20.092~~this rule~~ or by other authority and no other charges implemented in accordance with this rule shall be assigned to any account of the customer, including its affiliates and subsidiaries listed on the customer's written notification of opt-out.

(E) Dispute notices. If the utility provides notice ~~it of plan to~~ disputes the opt-out due to the customer not meeting the criteria to qualify for opt-out, the customer has a right to file an appeal with the commission. The commission shall provide notice and an opportunity for a hearing to resolve any dispute.

(F) Revocation. A customer may revoke an opt-out by providing written notice to the utility and commission not less than twelve (12) months in advance of the calendar year for which it will become eligible for the utility's demand-side programs costs and benefits.

(G) A customer who participates in demand-side programs initiated after August 1, 2009 shall be required to participate in program funding for a period of three (3) years following the last date when the customer received an incentive or a service.

(7) Tax credits and monetary incentives.

(A) Any customer of an electric utility who has received a state tax credit under sections 135.350 through 135.362, RSMo, or under sections 253.545 through 253.561, RSMo, is not eligible for participation in any demand-side program offered by a utility if such program offers the customer a monetary incentive to participate.

(B) As a condition of participation in any demand-side program offered by an electric utility under this section, when such program offers a monetary incentive to the customer, the customer shall attest to non-receipt of any tax credit listed in subsection (A) and acknowledge that the penalty for a customer who provides false documentation is a class A misdemeanor.

(C) The electric utility shall maintain a database of participants of all demand-side programs offered by the utility when such programs offer a monetary incentive to the customer including the following information:

1. The name of the participant; ~~or the names of the principles if for a company, t~~
2. The service property address; and t
3. The date of and amount of the monetary incentive received.

(D) Upon request by the commission, the utility shall disclose ~~all such~~ participant information in subsection (7)(C) to the commission.

(8) Collaborative guidelines. Each electric utility and its stakeholders are encouraged to form ~~an active~~ collaborative for the design, implementation and review of demand-side programs. These collaborative process ~~for this rule~~ may take place

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simultaneously with the collaborative process related to demand-side programs for 4 CSR 240-22 and are encouraged to .—occur no less frequently than once each quarter.

- (9) Variances. Upon request and for good cause shown, the commission may grant a variance from any provisions of this rule.
- (10) 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.