

## Rule 8. Guidelines for Demand-Side Cost Recovery by Electric Utilities

### 170 IAC 4-8-1 Definitions

Authority: IC 8-1-1-3

Affected: IC 8-1-2.2; IC 8-1-8.5; IC 8-1.5

Sec. 1. (a) As used in this rule, "allowance for funds used during construction" or "AFUDC" means the cost of borrowed funds used for capital expenditures associated with a utility-sponsored DSM program, and a reasonable rate on other funds when so used. AFUDC for capital expenditures shall be recorded in separate subaccounts or their subdivisions in accordance with the Federal Energy Regulatory Commission ("FERC") or National Association of Regulatory Utility Commissioners ("NARUC") NARUC uniform system of accounts.

(b) As used in this rule, "avoided cost" means the amount of fuel, operation, maintenance, purchased power, labor, capital, taxes, and other costs not incurred by a utility if an alternative supply or demand-side resource is included in the utility's integrated resource plan.

(c) As used in this rule, "commission" means the Indiana utility regulatory commission.

(d) As used in this rule, "conservation" means reducing the amount of energy consumed by a customer for a specific end-use. Conservation includes behavior changes such as thermostat setback. Conservation does not include changing the timing of energy use, switching to another fossil fuel source, or increasing off-peak usage.

(e) As used in this rule, "demand-side management" or "DSM" means the planning, implementation, and monitoring of a utility activity designed to influence customer use of electricity that produces a desired change in a utility's load shape, for example, a change in the time pattern and magnitude of a utility's load. DSM includes only an activity that involves deliberate intervention by a utility to alter load shape.

(f) As used in this rule, "demand-side measure" means a particular end-use device, technology, service, or rate design at a targeted customer's premises or a utility's energy delivery system for a specific DSM program.

(g) As used in this rule, "demand-side program" means a utility program designed to implement a demand-side measure.

(h) As used in this rule, "demand-side resource" means a resource that reduces the demand for electrical power or energy by applying a demand-side program to implement one (1) or more demand-side measures.

## OUCC COMMENTS IN RULE DEVELOPMENT PHASE OF RM 15-06: DSM Rule

(i) As used in this rule, "end-use" means the light, heat, cooling, refrigeration, motor drive, microwave energy, video or audio signal, computer processing, electrolytic process, or other useful work produced by equipment using electricity.

(j) As used in this rule, "energy efficiency improvement" means reduced energy use for a comparable level of energy service.

**(k) As used in this rule, "energy efficiency program" means a program that is (1) sponsored by the electric supplier; and (2) designed to implement energy efficiency improvements. The term does not include a program designed primarily to reduce demand for limited intervals of time, such as during peak electricity usage or emergency conditions.**

~~(lk)~~ As used in this rule, "energy service" means the light, heat, motor drive, and other service for which a customer purchases electricity from the utility.

~~(ml)~~ As used in this rule, "engineering estimate" means an estimate of energy (kWh) and demand (kW) impact resulting from a demand-side measure based on an engineering calculation procedure. An engineering estimate addresses change in energy use of a building or system resulting from installation of a DSM measure. If multiple DSM measures are installed, an engineering estimate accounts for the interactive effect between the DSM measures.

~~(nm)~~ As used in this rule, the "FERC Uniform System of Accounts" means the rules and regulations governing the classification of accounts for Class A-B private electric utilities, as approved, prescribed, and promulgated by the Federal Energy Regulatory Commission in 18 CFR 41 and 18 CFR 101 and adopted by the commission for Indiana electric utilities at 170 IAC 4-2-1.1.

~~(on)~~ As used in this rule, "free-rider" means a customer who would have installed a demand-side measure without participating in a utility-sponsored DSM program, yet participates in the DSM program and receives an incentive or bonus for participation.

~~(pe)~~ As used in this rule, "income effect" means the change in a customer's energy use that is induced by a change in the amount of disposable income available to the customer.

~~(qp)~~ As used in this rule, "integrated resource planning", ~~or~~ "**integrated resource plan**" or "IRP" means a utility's assessment of a variety of demand-side and supply-side resources to cost-effectively meet customer electricity service needs. The IRP may also include, but is not limited to, the following:

- (1) A **mandatory public participation procedure stakeholder process required under 170 IAC 4-7.**
- (2) An analysis of the uncertainty and risk posed by different resources and external factors.

(~~rq~~) As used in this rule, "load building" means a program intended to increase electricity consumption without regard to the timing of the increased usage.

(~~sf~~) As used in this rule, "load research" means the collection of electricity usage data through a metering device associated with an end-use, a circuit, or a building. The metered data is used to better understand the characteristics of electric loads, the timing of their use, and the amount of electricity consumed by users. The data may be collected over a variety of time intervals, usually sixty (60) minutes or less.

(~~ts~~) As used in this rule, "load retention" means a program intended to induce customers, that have a bona fide option of switching to alternative sources of energy services or self-generation, to remain as customers.

(~~ut~~) As used in this rule, "load shape" means the time pattern of customer electricity use and the relationship of the level of energy use to a specific time during the day, month, and year.

(~~vh~~) As used in this rule, "lost revenue" means the revenue lost less the variable operating and maintenance costs saved as a result of a utility implementing energy efficiency programs, not generating electricity because of a utility-sponsored DSM program.

(~~wv~~) As used in this rule, "NARUC Uniform System of Accounts" means the rules and regulations governing the classification of accounts for Class C-D private electric utilities and Class A-B-C-D municipal electric utilities, as developed by ~~the National Association of Regulatory Utility Commissioners~~ NARUC and adopted by the commission for Indiana electric utilities under 170 IAC 4-2-2.

(~~xw~~) As used in this rule, "participant" means a utility customer participating in a utility-sponsored DSM program.

(~~yx~~) As used in this rule, "participation level" means the actual number of customers participating in a specific demand-side program relative to the eligible number of customers available to participate in the demand-side program expressed as a percentage or a fraction.

(~~zy~~) As used in this rule, "penetration" means the ratio of the number of a specific type of new units installed to the total number of new units installed during a given time.

(~~aa~~) As used in this rule, "persistence" means the DSM measure's effectiveness over time. The effectiveness of a DSM measure is represented as the percentage of energy-saving effectiveness remaining in a particular year compared to the initial year of the measure's installation or implementation. The measure of effectiveness is a function of the following two (2) factors:

- (1) Equipment degradation.
- (2) Consumer behavior.

**OUCC COMMENTS IN RULE DEVELOPMENT PHASE OF RM 15-06: DSM Rule**

(aa) As used in this rule, "program costs" include the following ~~all expenses incurred by a utility in a given year for operation of a DSM program whether the cost is capitalized or expensed. An expense includes, but is not limited to, the following:~~

- (1) Direct and indirect costs of energy efficiency programs. ~~Administration.~~
- (2) Costs associated with the independent evaluation, measurement, and verification ("EM&V") of program results, and ~~Equipment.~~
- (3) Other recoveries or incentives approved by the commission, including lost revenues and financial incentives approved by the commission under IC 8-1-8.5-10 (o). ~~Incentives paid to program participants.~~

~~(4) Marketing and advertising.~~

~~(5) Monitoring and evaluation.~~

(bb) ~~As used in this rule, "public participation" means a procedure where a customer or interested party is provided the opportunity to comment on a utility's integrated resource plan prior to the submission of the IRP to the commission.~~

(cc) As used in this rule, "rebound effect" means a specific effect where a customer responds to a lower relative cost of electric service by purchasing more electricity in the same end-use where the demand-side program is concentrated.

(dd) As used in this rule, "resource" means a facility, project, contract, or other mechanism used by a utility to provide electric energy service to the customer.

(ee) As used in this rule, "self-generation" means an electric generation facility primarily for the customer's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation.

(ff) As used in this rule, "supply-side resource" means a resource that provides a supply of electrical energy or capacity, or both, to a utility. A supply-side resource includes the following:

- (1) A utility-owned generation capacity addition;~~;~~
- (2) A wholesale power purchase from another utility or non-utility generator;~~;~~
- (3) A refurbishment or upgrading of an existing utility-owned generating facility;~~;~~
- (4) A cogeneration facility;~~;~~
- (5) A renewable resource technology; and.

(6) Distributed generation.

(gg) As used in this rule, "useful life" means the period of time the investment in a measure remains cost-effectively serviceable.

(hh) As used in this rule, "utility" means:

- (1) a public, municipally owned, or cooperatively owned utility; or
- (2) a joint agency created under IC 8-1-2.2.

*(Indiana Utility Regulatory Commission; 170 IAC 4-8-1; filed Aug 31, 1995, 10:00 a.m.: 19 IR 24; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

### **170 IAC 4-8-2 Applicability**

Authority: IC 8-1-1-3

Affected: IC 8-1-2.2; IC 8-1-8.5; IC 8-1.5

Sec. 2. (a) To assist the commission in its administration of ~~the Indiana's Electric Utility Resource Planning and Certification statute~~~~Utility Powerplant Construction Law~~-(IC 8-1-8.5), this rule applies to the following:

- (1) A public, municipally owned, or cooperatively owned utility; ~~and-~~
- (2) A joint agency created under IC 8-1-2.2.

(b) Section 7 of this rule does not apply to a municipally owned or cooperatively owned utility or a joint agency created under IC 8-1-2.2.

*(Indiana Utility Regulatory Commission; 170 IAC 4-8-2; filed Aug 31, 1995, 10:00 a.m.: 19 IR 26; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

### **170 IAC 4-8-3 Purpose**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 3. (a) In order to facilitate compliance with Indiana's Electric Utility Resource Planning and Certification statute ~~the Utility Powerplant Construction Act~~ (IC 8-1-8.5) and to comply with federal requirements in the National Energy Policy Act of 1992-(16 U.S.C. 2621 and 16 U.S.C. 2622-~~effective October 24, 1992, P.L.102-486 Stat. 2795~~), the commission has developed a regulatory framework that allows a utility an incentive to meet long term resource needs with both supply-side and demand-side resource options in a least-cost manner and ensures that the financial incentive offered to a DSM program participant is fair and economically justified. The regulatory framework attempts to eliminate or offset regulatory or financial bias against DSM, or in favor of a supply-side resource, a utility might encounter in

procuring least-cost resources. The commission, where appropriate, will review and evaluate the existence and extent of regulatory or financial bias.

(b) In order to comply with the federal requirements in ~~National Energy Policy Act of 1992~~ (16 U.S.C. 2621 and 16 U.S.C. 2622 ~~effective October 24, 1992, P.L.102-486 Stat. 2795~~), the commission will review and evaluate the impact the utility's proposed ~~demand-side management~~DSM program may have on small privately owned business, as specified in section 8 of this rule.

(c) To ensure a utility's proposal is consistent with acquiring the least-cost mix of demand-side and supply-side resources to reliably meet the long term electric service requirements of the utility's customers, the commission, where appropriate, will review and evaluate, as a package, the proposed DSM programs, DSM cost recovery, lost revenue, and shareholder DSM incentive mechanisms.

*(Indiana Utility Regulatory Commission; 170 IAC 4-8-3; filed Aug 31, 1995, 10:00 a.m.: 19 IR 27; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

#### **170 IAC 4-8-4 Demand-side management program evaluation**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 4. (a) When seeking commission approval for cost recovery, DSM incentives, or lost revenue, a utility shall develop a process and load impact evaluation plan to assess implementation and quantify the impact ~~on energy and demand~~ of the demand-side resources on energy and demand (commonly referred to as an “evaluation, measurement and verification” (“EM&V”) plan). The ~~evaluation~~ EM&V plan must be performed by an independent third-party in accordance with a uniform statewide evaluation framework approved by the commission and must include the following:

- (1) The type and timing of the measurement activity used to evaluate a demand-side resource;:-
- (2) The process where the result is used to modify the impact estimate for future planning and design of the demand-side program;:-
- (3) The procedure employed regarding the following aspects of the evaluation of each program:

(A) Establish a protocol to collect basic data on load impact, participation level, utility cost, participant cost, and total cost. Data must be gathered to determine the load shape impact, net program savings, useful life of the measure, and persistence of savings, including utility actions to optimize market penetration of the program and minimize freeriders.

(B) Compare demand patterns of similar participant and nonparticipant groups, through the use of customer bill analysis, engineering estimates, end-use meter data, or other methods to identify the gross and net impacts of program participation on customers' usage and demand patterns; **and**

(4) A method to measure rebound or the income effect for a program or a sector where the effect may be significant.

(b) A utility shall submit to the commission, annually, a document containing information, data, and results from the utility's process and load impact evaluation studies.

*(Indiana Utility Regulatory Commission; 170 IAC 4-8-4; filed Aug 31, 1995, 10:00 a.m.: 19 IR 27; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

### **170 IAC 4-8-5 Cost recovery**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 5. (a) A utility is entitled to recover the reasonable cost of planning and implementing a ~~demand-side management~~**DSM** program, in one (1) or more of the following ways, or any combination of them, as determined by the commission:

(1) The inclusion of the cost in the utility's base rates during a rate case using a balancing account, where appropriate, to reconcile the utility's recovered expenditures. The commission may, where appropriate, limit cost recovery to the utility's actual incurred expenses, if the utility is spending less than the costs authorized by the commission for inclusion in the utility's base rates.

(2) The periodic recovery of the cost incurred in excess of the cost that is included in the utility's base rates.

(3) The inclusion of the capital cost, with accumulated AFUDC, in the utility's rate base during its rate case, amortized over a period set by the commission.

**OUCC COMMENTS IN RULE DEVELOPMENT PHASE OF RM 15-06: DSM Rule**

(4) The accumulation, with a carrying charge, of the non-capital cost incurred and not otherwise recovered through the utility's base rates or through periodic adjustments in a deferred account to be amortized over a period set by the commission.

(5) A cost recovery mechanism proposed by the utility, other parties, or the commission.

(b) The commission shall determine the cost recovery mechanism for a ~~demand-side management~~**DSM** program when the ~~demand-side management~~ program is submitted for commission approval.

(c) The determination of a cost recovery mechanism for a ~~demand-side management~~**DSM** program under this section shall not constitute approval of a specific dollar amount, and the reasonableness or prudence of a revenue requirement for cost recovery may be debated in a future proceeding before the commission.

(d) A utility proposing a load building or load retention program must quantify and document by program-specific analysis, the net benefit to the utility's customers, and justify nonparticipant ratepayer funding for the program.

(e) Cost recovery ~~of for~~ a ~~demand-side management~~**DSM** program under this section shall continue as determined by the commission, provided that the utility maintains ~~satisfactory implementation and completion of DSM program~~ **EM&V measurement and evaluation** activities, as specified in section 4 of this rule.

(f) In order to ensure that DSM program benefits and costs are allocated between utility shareholders, participants, and nonparticipants in a fair and economical way, the utility must show the commission when a DSM program is reviewed that an incentive paid by the utility to the customer for participating in a DSM program, when combined with the reduction in the participant's utility bills:

(1) reflects the net benefit of the DSM program to the utility and ~~all its~~ customers, **excluding industrial customers that have opted-out of DSM program participation under IC 8-1-8.5-9(f) and IC 8-1-8.5-10(p)**; and

(2) minimizes cross-subsidies between customer ~~groups~~ **classes (except as permitted or required under IC 8-1-8.5-9 and IC 8-1-8.5-10, which permit large industrial customers to opt-out of DSM program participation)** and between **DSM program** participants and nonparticipants within a customer ~~group~~ **class**.

*(Indiana Utility Regulatory Commission; 170 IAC 4-8-5; filed Aug 31, 1995, 10:00 a.m.: 19 IR 27; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

**170 IAC 4-8-6 Lost revenue**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 6. (a) The commission may allow the utility to recover the utility's lost revenue from the implementation of a ~~demandside management~~DSM program sponsored or instituted by the utility. The calculation of lost revenue must account for the following:

(1) The impact of free-riders; ~~and~~.

(2) The change in the number of DSM program participants between base rate changes and on the revised estimate of a program-specific load impact that results from the utility's EM&V, ~~measurement and verification~~ activities under sections 4 and 5(e) of this rule.

(b) A utility seeking recovery of lost revenue shall propose for commission review a methodology or process for incorporating a lost revenue recovery mechanism which includes the following:

(1) The level of free-riders in a DSM program; ~~and~~.

(2) A revised estimate of a DSM program-specific load impact resulting from regular utility ~~measurement and~~ EM&V evaluation activities.

(c) The commission may periodically review the need for continued recovery of ~~the~~ lost revenue as a result of a utility's DSM programs, and the approval of a lost revenue recovery mechanism shall not constitute approval of specific dollar amounts, the prudence or reasonableness of which may be debated in a future proceeding before the commission.

*(Indiana Utility Regulatory Commission; 170 IAC 4-8-6; filed Aug 31, 1995, 10:00 a.m.: 19 IR 28; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

**170 IAC 4-8-7 Demand-side management incentives**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 7. (a) A utility is allowed an opportunity for earnings from prudent investments in both supply-side and demand-side resources. When appropriate, the commission may provide the utility with a shareholder incentive to encourage participation in and promotion of a ~~demand-side management~~DSM program. A utility may propose a shareholder incentive based on particular

attributes of a DSM program and the program's desired results. A shareholder incentive may include, but is not limited to, the following:

- (1) Grant a utility a percentage share of the net benefits attributable to a ~~demand-side management~~ **DSM** program.
- (2) Allow a utility to earn a greater than normal return on equity for a rate-based ~~demand-side management~~ **DSM** expenditure.
- (3) Adjust a utility's overall return on equity in response to quantitative or qualitative evaluation of ~~demand-side management~~ **DSM** program performance.
- (b) The commission may alter or terminate, when appropriate, terminate a shareholder incentive.
- (c) A shareholder incentive shall not provide an incentive payment for a program unless the net kilowatt or kilowatt-hour impact, or both, can be reasonably determined.
- (d) Load building and load retention programs are not eligible for shareholder incentives.
- (e) A utility must include a comprehensive independent EM&V measurement and verification plan with a shareholder incentive request, as ~~described~~ discussed in section 4 of this rule.
- (f) A shareholder incentive mechanism must reflect the value to the utility's customers of the supply-side resource cost avoided or deferred by the utility's DSM program minus incurred utility DSM program costs.
- (g) In order to reflect only the conservation and load management impact of a utility-sponsored DSM program, the shareholder incentive mechanism must exclude the effect of free-riders from the incentive calculation.
- (h) A shareholder incentive applicable to a DSM program may be based on prespecified demand and energy savings until the information on demand and energy savings from utility measurement and evaluation activities becomes available.
- (i) Commission approval of a mechanism for the recovery of a shareholder incentive based on a utility-sponsored DSM program is not approval for the utility to recover a specific dollar amount. The reasonableness or prudence of a revenue requirement for recovery of a shareholder incentive may be debated in a future proceeding before the commission.  
*(Indiana Utility Regulatory Commission; 170 IAC 4-8-7; filed Aug 31, 1995, 10:00 a.m.: 19 IR 28; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

**170 IAC 4-8-8 Impact of demand-side management on small business**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 8. Contemporaneously with the commission's approval of a utility's DSM program, the commission shall, under 16 U.S.C. 2621(c)(3)(A) and 16 U.S.C. 2621(c)(3)(B) ~~effective October 23, 1992~~, do the following:

(1) Consider the impact that implementation of the proposed DSM program would have on small business engaged in design, sale, supply, installation, or servicing of energy conservation, energy efficiency improvements, or other ~~demand-side management~~ **DSM** measures.

(2) If necessary, implement a revision to the proposed DSM program to assure that utility actions would not provide the utility with an unfair competitive advantage over small businesses **es selling other DSM programs or services**.

*(Indiana Utility Regulatory Commission; 170 IAC 4-8-8; filed Aug 31, 1995, 10:00 a.m.: 19 IR 29; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*