

September 14, 2015

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*Electronically delivered*

Re: Comments and Proposed Language for 170 Indiana Administrative Code 4-8 *et seq.*,  
Guidelines for Demand-Side Cost Recovery by Electric Utilities

Dear General Counsel Roads:

Citizens Action Coalition of Indiana, Indiana Distributed Energy Alliance, the Indiana State Conference of the National Association for the Advancement of Colored People, Sierra Club, and Valley Watch (collectively, “Joint Commenters”) appreciate the opportunity to propose draft language and comments on the Integrated Resource Plan and Energy Efficiency Plan Rulemaking (RM # 15-06).

The submission of Joint Commenters will be in two stages. Today, Joint Commenters are providing the attached proposed draft language for 170 Indiana Administrative Code 4-8 *et seq.*, Guidelines for Demand-Side Cost Recovery by Electric Utilities. Joint Commenters will provide their submission for 170 Indiana Administrative Code 4-7 *et seq.*, Guidelines for Electric Utility Integrated Resource Plans, on September 15, 2015.

Although Joint Commenters recommend specific language for 170 IAC 4-8-6 (Lost Revenue) and 170 IAC 4-8-7 (Demand-Side Management Incentives) in the attached document, Joint Commenters believe that there should be a workshop to discuss a cohesive state policy on the calculation of lost revenues and performance incentives, as these areas seem to have the most diverse methodologies among Indiana utilities. Joint Commenters recommend that the Commission and stakeholders consider the costs and benefits of designing a performance incentive that has multiple criteria, as well as identify appropriate criteria for a three-year energy efficiency cycle that will motivate the utilities to pursue Indiana’s energy efficiency policy goals.

Joint Commenters also recommend that the statewide Evaluation, Measurement, and Verification documents, such as the Indiana Technical Reference Manual and the Indiana Evaluation Framework, be regularly maintained to provide stakeholders and utilities with common baselines upon which to base their analyses. Statewide consistency is necessary to avoid unnecessary, additional conflict.

Thank you very much for this opportunity. Please feel free to contact Jennifer Washburn, Counsel at Citizens Action Coalition, with any questions or concerns. Her phone number is 317-735-7764 and email is [jwashburn@citact.org](mailto:jwashburn@citact.org).

Respectfully,

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## 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)~~

(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 FERC or NARUC uniform system of accounts.

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

~~(c)~~ ~~(d)~~ As used in this rule, "~~conservation~~" "commission analysis" means ~~reducing the amount of required state energy consumed~~ analysis developed by a customer for a specific end-use. ~~Conservation~~ the commission under IC § 8-1-8.5-3.

~~(d)~~ As used in this rule, "cost-effective" means a standard used to describe a "net beneficial" result of programs to be implemented, determined through a process that includes behavior changes such as thermostat setback. ~~Conservation does not include changing the timing a review of relevant benefit/cost tests.~~

~~(e)~~ ~~(e)~~ As used in this rule, "deemed savings" means pre-determined, validated estimates of energy use, switching to another fossil fuel source, or increasing off- and peak usage demand savings attributable to particular energy efficiency measures, based upon engineering calculations, baseline studies and/or reasonable assumptions. Such savings are generally those representing the difference between standard efficiency measures and energy efficient measures. Deemed savings values must be revised periodically to reflect new technologies and new federal, state or local policies and codes.

~~(d)~~ ~~(f)~~ ~~(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.~~ achieve energy efficiency or demand response. DSM includes only an activity that involves deliberate intervention by a utility ~~to alter load shape.~~

~~(g)~~ ~~(f)~~ As used in this rule, "demand side management plan process" or "DSM plan process" means a utility's assessment of its achievable energy efficiency potential and its ability to meet that potential within its IRP. The demand side management plan process shall also include, but is not limited to, a public participation procedure.

~~(e)~~ ~~(h)~~ As used in this rule, "demand-side measure" or "demand side management measure" or "DSM 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.

~~(i)~~ ~~(g)~~ As used in this rule, "demand-side management plan" or "DSM plan" means all demand side programs that a utility offers.

~~(f)~~ ~~(j)~~ As used in this rule, "demand-side management program" or "DSM program" means a utility program designed to implement a demand-side measure.

~~(g)(k)~~ ~~(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.

~~(l)~~ ~~(i)~~ As used in this rule, “demand side management program costs” or “DSM program costs” are the actual costs of implementing the utility demand side management program, exclusive of lost revenue and performance incentive.

~~(m)~~ As used in this rule, “demand response” means a reduction in demand for limited intervals of time, such as during peak electricity usage or emergency conditions.

~~(h)~~ ~~(n)~~ 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.

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

~~(p)~~ ~~(k)~~ As used in this rule, “energy efficiency goal” means all energy efficiency produced by cost-effective DSM plans that are reasonably achievable; consistent with a utility’s IRP; and designed to achieve an optimal balance of energy resources in a utility’s service territory.

~~(q)~~ As used in this rule, “energy efficiency target” means an established baseline of energy savings as a result of the commission analysis, a determination by the commission based upon the recommendation of the final report of the director of the electricity division of the commission on IRPs pursuant to 170 IAC 4-7, and/or a finding by the commission in an order on a utility DSM plan.

~~(j)~~ ~~(r)~~ 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.

~~(k)~~ ~~(s)~~ ~~(t)~~ 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.

~~(t)~~ ~~(m)~~ 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.

~~(t)~~ ~~(u)~~ As used in this rule, “gross energy” means the change in energy consumption that results directly from energy efficiency program-promoted actions taken by energy efficiency program participants regardless of the extent or nature of program influences on their actions. 4-2-1.1.

~~(v)~~ ~~(n)~~ As used in this rule, “gross demand” means the change in demand that results directly from DSM program-promoted actions taken by DSM program participants regardless of the extent or nature of program influences on their actions.

~~(w)~~ As used in this rule, “EM&V” means the independent evaluation, measurement and verification of DSM programs.

~~(m)~~ ~~(x)~~ 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.

~~(n)(y) (o)~~ As used in this rule, "income effect" means the long term and short term change in a customer's energy use that is induced by a change in the amount of disposable income available to the customer.

~~(o)(z) (p)~~ As used in this rule, "integrated resource planning", or "plan" or "IRP" means a utility's assessment of a variety of demand side and supply side resources document submitted to cost-effectively meet customer electricity service needs. The IRP may also include, but is not limited to, the following requirements of 170 IAC 4-7.

~~(1) A public participation procedure.~~

~~(2) An analysis of the uncertainty and risk posed by different resources and external factors.~~

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

~~(r) 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.~~

~~(q)(bb) (s)~~ 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.

~~(r)(cc) (t)~~ 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.

~~(s)(dd) (u)~~ As used in this rule, "lost revenue" means the revenue lost less, if any, due to the variable operating and maintenance under recovery of authorized fixed costs saved as a result of not generating electricity because of by a utility-sponsored DSM program implementing electric energy efficiency programs.

~~(ee) (v)~~ As used in this rule, "lost revenue rate" shall mean the value, when multiplied by energy efficiency savings, that yields a utility's proposed lost revenue.

~~(t)(ff)~~ 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 and adopted by the commission for Indiana electric utilities under 170 IAC 4-2-2.

~~(gg) (w)~~ As used in this rule, "net energy" means the portion of gross energy that is attributable to the energy efficiency program, including free ridership and spillover.

~~(hh)~~ As used in this rule, "net demand" means the portion of gross demand that is attributable to the DSM program, including free ridership and spillover.

~~(ii)~~ As used in this rule, "non-energy benefits" includes, but is not limited to, reductions in water consumption, reduced participant operating and maintenance costs, reduced utility labor costs, improved participant health impacts, increased participant property value, increased participant comfort, decreased arrearages, and utility reduction of transaction costs related to meter disconnections and reconnections.

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

~~(v)(kk)~~ ~~(x)~~ 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.

~~(w)(ll)~~ ~~(y)~~ 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.

~~(x)(mm)~~ ~~(z)~~ 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 DSM measure's installation or implementation. The DSM measure of effectiveness is a function of the following two (2) factors:

(1) Equipment degradation.

(2) Consumer behavior.

~~(aa)~~ As used in this rule, "program cost" means 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) Administration.~~

~~(2) Equipment.~~

~~(3) Incentives paid to program participants.~~

~~(4) Marketing and advertising.~~

~~(5) Monitoring and evaluation.~~

~~(y)(nn)~~ ~~(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 or demand side management plan process prior to or after the submission of the IRP or demand side management plan to the commission.

~~(z)(oo)~~ ~~(ee)~~ 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.

~~(aa)(pp)~~ ~~(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.

~~(bb)(qq)~~ ~~(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.

~~(rr)~~ ~~(ff)~~ As used in this rule, "spillover" means additional reductions in energy consumption and /or demand, by program participants, due to program influences beyond those directly associated with DSM program participation.

~~(ee)(ss)~~ 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.

~~(gg)~~ 6) Any technology that improves the efficiency of the transmission and/or distribution system.

~~(dd)(tt)~~ As used in this rule, "useful life" means the period of time the investment in a life of an energy consuming DSM measure remains cost-effectively serviceable, including its equipment life and DSM measure persistence.

~~(ee)(uu) (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 Utility Powerplant Construction Law (IC 8-1-8.5), this rule applies to the following:

- (1) A public, municipally owned, or cooperatively owned utility.
- (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 the Utility Powerplant Construction Act (IC 8-1-8.5) ~~and to comply with~~, 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~~;~~2795~~), and the Clean Air Act (42 U.S.C Section 7401 et seq.), 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 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 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 performance incentives, or lost revenue, a utility shall develop an independent EM&V process and load impact evaluation plan to assess implementation and quantify the impact on energy and demand of the demand side demand side resource. The evaluation EM&V plan 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 energy program savings, useful life of the DSM 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 energy, gross demand and net energy and net demand impacts of program participation on customers' usage and demand patterns.
  - (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 and post to its utility DSM website, annually, a document containing all information, data, and results from the utility's process and load impact evaluation studies— within 30 calendar days of receiving the final report.
- (c) A utility shall post to its utility DSM website the source documentation used to calculate the process and load impact evaluation studies, including but not limited to the most recent version of the Technical Reference Manual, within 30 calendar days of receiving the final report.
- (d) A utility shall adhere to the most recent version of the Indiana Evaluation Framework that has been approved by the Commission.

*(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~~ prudent DSM program, ~~in costs on a timely basis through a periodic rate adjustment mechanism, a utility may propose~~ one (1) or more of the following ~~ways~~, or any combination of them, as ~~determined by the commission~~ alternatives:

(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.

(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 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 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~~ 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~~ rate design programs are not eligible for the program cost recovery.

(e) Cost recovery of a demand-side management program under this section shall continue as determined by the commission provided that the utility maintains satisfactory implementation and completion of independent DSM program ~~measurement and evaluation~~ EM&V 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 customers; and~~

~~(2) minimize cross-subsidies between customer groups and between participants and nonparticipants within a customer group.~~

*(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~~demand-side management program sponsored or instituted by the utility. ~~The calculation of lost revenue must account for the following:~~

~~(1) The impact of free riders.~~

~~(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 result from the utility's measurement and evaluation 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 net energy savings;~~

~~(2) Incorporation of the utility's most recent independent EM&V results in a DSM program; the lost revenue calculation;~~

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

~~(3) Demonstrate that revenue has been lost due to under recovery of authorized fixed costs due to energy efficiency and not made up for by other factors including, but not limited to, load growth;~~

~~(4) Demonstrate that the utility's proposed lost revenue rate will recover only authorized fixed costs; and~~

~~(5) If the utility uses block rates to determine its lost revenue rate, the tail block shall be the rate from which the fixed cost portion is determined.~~

~~(c) If lost revenue is approved pursuant to this section, lost revenue shall be limited to thirty-six months or the life of the measure, whichever is shorter.~~

~~(d) Load building, load retention, demand response and rate design programs are not eligible for lost revenue.~~

(e) The commission may periodically review the need for continued recovery of the lost revenue as a result of a utility's DSM program, and the approval of a lost revenue recovery mechanism shall not constitute approval of specific dollar amount, 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 performance 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 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 benefit attributable to a demand-side management program.~~

~~(2) Allow a utility to earn a greater than normal return on equity for a rate-based demand-side management expenditure.~~

~~(3) Adjust a utility's overall return on equity in response to quantitative or qualitative evaluation of demand-side management program performance.~~

(b) The commission may terminate, when appropriate, 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, demand response and rate design programs are not eligible for shareholder incentives.

(e) A utility must include an independent, comprehensive measurement and evaluation EM&V plan with a shareholder incentive request as described 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 cost, excluding lost revenue.

(g) In order to reflect only the conservation energy efficiency and permanent peak load management reduction impact of a utility-sponsored DSM ~~program programs~~, the shareholder incentive mechanism must exclude the effect of free riders from the incentive calculation. be calculated using net energy savings.

(h) A shareholder incentive applicable to a DSM program may be based on prespecified deemed demand and energy savings until the information on demand and energy savings from utility measurement and evaluation EM&V activities becomes available. The utility shall retrospectively apply EM&V impact results to any DSM program that relied on deemed savings to calculate performance incentives during its annual reconciliation.

(i) Commission approval of a mechanism for the recovery of a shareholder incentive based on a utility-sponsored DSM program is not approval for 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 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 business.

*(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)*

### **170 IAC 4-8-9 Requests for DSM Program Approvals**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5

Sec. 9. (a) A utility shall file a request for approval of a DSM plan not less than one time every three years beginning no later than calendar year 2017.

(b) A utility applying to the commission for approval of a DSM plan shall include the following information in its petition or case in chief:

(1) A description of the objective of the DSM plan proposed by the utility. The overall objectives of the DSM plan are to encourage and enable utility customers to make the most efficient use of utility capacity and energy and to discourage inefficient and wasteful use of energy. When proposing any one or a combination of DSM programs, in recognition of the many benefits of DSM, a utility is encouraged to describe, in qualitative and quantitative terms, how its proposal furthers or accomplishes the following objectives or ancillary benefits in support of energy efficiency that are reasonably applicable to the utility's proposal:

(A) Energy savings directly attributable to program activities;

(B) Long-term and permanent changes in behavior, attitudes, awareness, and knowledge about energy savings and use of energy efficient technologies in order to achieve energy savings;

(C) Permanent peak electric demand reduction;

(D) Energy cost savings and cost-effectiveness, including the benefits and costs of these different aspects of the program, and to comment on the barriers that impede accomplishment of these energy efficiency objectives and how to overcome these barriers;

(E) Reliability enhancements;

(F) Energy security benefits;

(G) Environmental benefits;

(H) Economic development/competitiveness benefits;

(I) Increases in system-wide capacity;

(J) Accelerating the commercialization of advanced or emerging technologies;

(K) Improving affordability of energy for all customers and all customer classes; and

(L) Implementing programs in an efficient manner.

Should the utility determine that its proposal does not accomplish or meet the listed

objectives or benefits, the utility shall briefly explain why its proposal does not and any barriers which impede the accomplishment of these objectives.

(2) A budget for the DSM plan, including budgets for specific DSM programs.

(3) Projected changes in customer consumption of electricity resulting from the implementation of the DSM plan, expressed in both megawatt hours per year and as a percentage of annual sales.

(4) A description of how the DSM plan is consistent with the energy efficiency goal and the energy efficiency target.

(5) A description of how the DSM plan is consistent with the commission analysis.

(6) A description of how the DSM plan is consistent with the utility's IRP as well as the report of the director of the electricity division of the commission required in 170 IAC 4-7, including providing copies of relevant portions of the utility's most recent IRP.

(7) A description of the services to be provided.

(8) A description of the target population.

(9) A demonstration that the scope of the programs serves all eligible customer classes.

(10) A description of the cost-recovery, lost revenues and/or shareholder incentives sought to be recovered or received by the utility.

(11) The effect, or potential effect, in both the long term and the short term, of the DSM plan on the electric rates and bills of customers that participate in DSM programs compared to the electric rates and bills of customers that do not participate.

(12) A description of all barriers being addressed and how they are being addressed.

(13) Identification of all proposed customer incentives, if any.

(14) A proposed EM&V plan.

(15) A proposed time frame if a program term is limited.

(16) A proposal to address over-subscription to the programs, including a proposal to increase the programs' budgets to accommodate over-subscription.

(17) An analysis demonstrating that the DSM plan or program is beneficial, using one or both of the following tests:

(A) Utility Cost (UC).

(B) Total Resource Cost (TRC). When the TRC test is used, both participant costs and non-energy benefits shall be included in the calculation.

(18) The estimated energy and peak demand savings and the basis for these savings estimates, which may include Deemed Savings as approved by the Commission; and

(19) Any additional supporting information the Commission may propose and any additional analyses the utility may propose.

(c) Programs addressing both electric and gas customers shall be coordinated to the extent reasonable.

(d) If a utility chooses to offer a home energy efficiency assistance program for qualified customers as described in IC 8-1-8.5-10(h), it shall not be included in the overall cost-effectiveness analysis of a utility's DSM programs; however, all DSM program costs associated with this program will be fully recoverable.

(e) The utility shall conduct and complete an independent technical, economic and achievable potential study for all customer classes, prior to submitting its DSM plan to the Commission for its approval.

(f) Public Participation Process prior to and after the filing of a utility's DSM plan.

(1) To enable an open and transparent demand side management plan process, each utility shall:

(A) Post the quarterly scorecard to the utility's DSM webpage within thirty calendar days of receiving the final version.

(B) Post the utility's most recent technical, economic and achievable potential study on the utility's DSM webpage within 30 calendar days of its completion.

(C) Post the materials from its DSM oversight board meetings, including requests for increased DSM program budgets as they occur.

(D) Post the contact information and webpage link for the Indiana Office of Utility Consumer Counselor on the utility's DSM webpage to facilitate the public's ability to comment on the utility's DSM plan.

(E) Make every reasonable effort to notify the public, including but not limited to community organizations, customers, and trade allies, through various channels of outreach about the filing of a utility's DSM plan.

(2) The commission shall consider the comments submitted from the public in making its decision on a utility's DSM plan.