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# COMMENTS ON RM# 15-06: 170 IAC 4-7 AND 4-8, STRAWMAN DRAFT PROPOSED RULE 10/22/2015

November 18, 2015

## INTRODUCTION

The Midwest Energy Efficiency Alliance (MEEA) submits these comments in response to the Indiana Utility Regulatory Commission's (IURC) Strawman Draft Proposed Rule in RM # 15-06 to update the commission's rules requiring electric utilities to prepare and submit integrated resource plans.

As the Midwest's principal proponent, information source, and networking forum for energy efficiency policy, MEEA helps educate and advise a diverse set of stakeholders on new and meaningful ways to pursue an energy-efficient agenda that's both achievable and cost-effective.

MEEA's membership includes energy providers, policymakers, implementers, manufacturers, and environmental groups, and consists of more than 150 organizations, including 18 in Indiana.

## EXECUTIVE SUMMARY

Energy efficiency is the quickest path to reducing energy costs and the cheapest kilowatt hour of electricity to generate. Robust energy efficiency programs benefit all ratepayers by reducing the need to rely on costly electricity generation during peak times and avoiding the need to build additional power plants and transmission facilities. At an average of \$14 per megawatt hour in the Midwest<sup>1</sup>, energy efficiency is three times cheaper than new natural gas and coal fired power plants and two times cheaper than wind generation<sup>2</sup>. In 2013, for every \$1 spent on energy efficiency programs in Indiana, residents and businesses reaped \$3.02 in benefits.<sup>3</sup> The calculated benefits include energy and capacity related avoided costs such as the cost of building new generation, transmission, and distribution facilities. All of these benefits are highly localized and remain in-state. Therefore, it is essential that the IURC's Final Rule establish a framework to maximize the required investment in cost-effective energy efficiency programs.

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<sup>1</sup> Billingsley, MA, Hoffman, IM, Stuart, E, Schiller, SR, Goldman, CA, and LaCommare, K. 2014. *The Program Administrator Cost of Energy Saved for Utility Customer-Funded Energy Efficiency Programs*. Berkeley: Ernesto Orlando Lawrence Berkeley National Laboratory. Report LBNL-6595E. Accessed at <http://emp.lbl.gov/publications/program-administrator-cost-saved-energy-utility-customer-funded-energy-efficiency-progr>

<sup>2</sup> Lazard. 2013 "Levelized Cost of Energy Analysis - Version 7.0." New York, NY: Lazard, Ltd. Accessed at <http://www.slideshare.net/SlaterTater/lazard-levelized-cost-of-energy-report>

<sup>3</sup> Indiana Utility Regulatory Commission. 2014. *Indiana's Core and Core Plus Energy Efficiency Programs: Benefits, Costs and Savings*. Submitted to the Indiana General Assembly on August 15, 2014. Accessed at [http://www.in.gov/iurc/files/DSM\\_Report\\_to\\_General\\_Assembly\\_w\\_Cover\\_Letter\\_8-15-2014\(1\).pdf](http://www.in.gov/iurc/files/DSM_Report_to_General_Assembly_w_Cover_Letter_8-15-2014(1).pdf)

In 2014, Indiana repealed its statewide energy efficiency standard. Since that change, total utility energy efficiency budgets decreased by 30% while total energy savings decreased by 47%.<sup>4</sup> These reductions led to an overall lowering of the cost-effectiveness of the energy efficiency program delivery for Indiana ratepayers. While Indiana has had an IRP requirement since 1995, it took the IURC's 2009 Phase II Order to establish a savings goal to get any meaningful investment in energy efficiency. It is thus vital that the IRUC's Final Rule create a framework for the recapture of cost-effective energy efficiency programs in Indiana.

We appreciate this chance to comment on the Strawman rules and hope that our suggestions and those of other organizations that support energy efficiency in Indiana will prove useful to the commission as it moves forward with the rulemaking process.

## GENERAL COMMENTS

In addition to specific comments & edits we have suggested to the language in the proposed rule to provide clarity and ensure that definitions used are consistent with industry-standard definitions and best practices, we provide more in-depth discussion of several areas of the Strawman where we feel that additional changes are necessary to fully integrate energy efficiency as a resource into the IRP process. We and other commenters included discussion of some of these topics in our earlier comments, and we reiterate them here. We hope that the discussion of this Strawman and further revisions by the IURC will take these important considerations into account, including:

- empowering the commission to hold utilities more accountable for the completeness of their IRPs;
- the use of independently-performed studies to establish energy efficiency potential;
- creating a clearly definition for what is considered "achievable" energy efficiency/DSM;
- limiting the time period over which lost revenues can be recovered by the utilities;
- recognizing the benefits, including non-energy benefits, of demand-side management;
- increasing the role of public participation in the planning process; and
- ensuring that IRP and DSM planning schedules are synchronized such that the former informs the latter.

## COMMENTS BY SECTION

### 170 IAC 4-7-1 DEFINITIONS

#### Part (c)

- This is a suggested reworking of this definition which we think would provide clarity that avoided costs include capacity and energy purchase costs as well as the other associated operational costs. We think this clarifies without changing the meaning.

#### Part (j)

- Replaced "monitoring" with "evaluation, measurement, and verification" to be more consistent with the content of 4-8-1.

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<sup>4</sup> Midwest Energy Efficiency Alliance. 2015. *Energy Efficiency in Indiana after Repealing the Statewide Standard*. Accessed at [http://www.mwalliance.org/sites/default/files/uploads/advokit/MEEA\\_2015\\_Advokit\\_Energy-Efficiency-Indiana-After-Repealing-Statewide-Standard\\_April2015.pdf](http://www.mwalliance.org/sites/default/files/uploads/advokit/MEEA_2015_Advokit_Energy-Efficiency-Indiana-After-Repealing-Statewide-Standard_April2015.pdf).

### Parts (k) through (m)

- Since there are repeated uses of the terminology “DSM measure/program/resource” in the document, (including edits that changed “demand-side” to “DSM”) add these alternatives to the terms here.
- In general, for consistency throughout the document, except in section titles, we changed “demand-side measure/program/resource” since the “DSM” usage was more common. Where it was spelled out, we also changed “demand-side management” to “DSM”.
- The definitions for terms (k) demand-side measure and (l) demand-side program each use each other’s term in their definition, creating a ‘circular’ reference that should be fixed for better clarification.
- In relation to the above point, we suggest revising the definitions here to create a clear hierarchy of a “resource” made up of “programs” which are made up of “measures” without looping back on itself, as our comments in the edited text demonstrate.

### Part (ee), (yy), and (aaa)

- It is preferred here that standard, full names for the benefit-cost tests as used in the 2008 National Action Plan for Energy Efficiency be used. This will avoid any potential for confusion.
- With regard to (ee), the term ‘value’ is vague and we feel rewording it to be specific that it is talking about costs versus benefits relieves that vagueness in the original wording. We would like to see reference to benefits include the actual benefits considered in the PCT, as we have listed.
- With regard to (yy), we would like the TRC definition to call out the inclusion of environmental and non-energy benefits. This is often an afterthought in TRC calculations, and not given the full weight it should. Significant research has been done to demonstrate that non-energy benefits can be quantified and included in cost-effectiveness tests. By including it in the definition, it helps emphasize the importance of NEBs for the test.
- With regard to (aaa) the ‘utility cost test’ is the original name for the test, and is the term used for the test throughout the Strawman, it makes sense to leave that as the primary term here and include the newer name as an alternate.

### Part (hh)

- We think it is important that the definition make clear that resources can come from both the supply side and the demand side.

### Part (jj)

- In subpart (5), the standard terminology is “Evaluation, Measurement, and Verification” (not “monitoring”), and it is useful to include the acronym here
- EM&V is not defined as a term in these definitions, though it is included in the definitions for 4-8-1 (out of alphabetical order at 4-8-1(r)). We suggest edits to that definition where it is listed. That definition could also be included in this section.
- This term means the same thing as “DSM program cost” defined in 4-8-1 (i) but the definitions are not the same. In general, we like the definition of “DSM program costs” in 4-8-1 (i) better than this definition here and feel that this should be replaced with the other, with modifications as we suggest later in this document.
- If “program cost” is defined, there should be a definition for “program benefit” as well. That definition should include non-energy benefits.

## 170 IAC 4-7-2 PROCEDURES AND EFFECTS OF FILING INTEGRATED RESOURCE PLANS

### Part (e)

- We want to ensure that the full spectrum of interested parties is notified by the utilities. We suggest that the Commission develop a non-exclusive list of stakeholder perspectives that may be considered an interested party. We suggested a list for the Commission's consideration.

### Part (h)

- We would like to see language that allows the director/commission to require additional or amended information from the utility prior to reporting, if information provided is insufficient to adequately assess the IRP for the draft report. This would help make sure that IRP filings are completed with all the required materials included, so the directors report can focus on modeling assumptions, methodological issues, and other substantive matters that may be important if and when the IRP is introduced as evidence in later proceedings.

### Parts (k) through (l)

- Though we understand the staff's position on this section from the November 5 rulemaking workshop, we still want to reiterate our position that this is an area of these rules that we think would be significantly strengthened by increasing the authority to accept, reject, modify, or require modifications to the IRP and the resource selections. While we do not agree that the director's report should be limited to (k) 1- 3, if nothing else the commission should be able to accept, reject, modify, or require modifications based on items (k) 1 – 3.
- In states with IRP processes that strongly support energy efficiency and demand-side resources, commissions are empowered to do more than simply report on and accept the utility's preferred resource plan.
- The following are examples from regulatory language in other states (emphasis added) that are indicative of the type of IRP accountability that we think is valuable:

**Colorado<sup>5</sup>:**

*(b) Basis for Commission decision. Based upon the evidence of record, the **Commission shall issue a written decision approving, disapproving, or ordering modifications, in whole or in part, to the utility's plan** filed in accordance with rule 3604. **If the Commission declines to approve a plan, either in whole or in part, the utility shall make changes to the plan in response to the Commission's decision. Within 60 days of the Commission's rejection of a plan, the utility shall file an amended plan with the Commission and shall provide copies to all parties who participated in the application docket concerning the utility's plan. All such parties may participate in any hearings regarding the amended plan.***

<sup>5</sup> Code of Colorado Regulations, 4 CCR 723-3, Part 3 Rules Regulating Electric Utilities, Section 3617. Commission Review and Approval of Resource Plans, page 118. Accessed at <http://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=5738>

**Minnesota<sup>6</sup>:**

*Subpart 1. Decision. Based upon the record, which is the information filed with the commission in the resource plan proceeding of a utility, including responses to information requests, the commission shall issue a decision consisting of findings of fact and conclusions on the utility's proposed resource plan and the alternative resource plans. **If the commission determines there is insufficient information upon which to issue findings and conclusions, it may delay issuing its decision to permit production of the desired type and level of information.***

*Subp. 2. Preferred plan. **If the commission concludes that a set of resource options would be optimal, considering the desirable attributes listed in subpart 3, it may identify that set of resource options as a preferred resource plan.** A preferred resource plan need not have been specifically proposed or advocated by the utility, an intervening party, or other interested person.*

...

*Subp. 4. Issues requiring further consideration. In its decision, **the commission may direct the utility to provide in its next resource plan filing a discussion of specified issues.** The issues may include those not totally resolved in the current proceeding and those for which the state of knowledge is changing substantially between resource plan filings.*

**170 IAC 4-7-2.1 PUBLIC ADVISORY PROCESS****Part (e)(1)**

- We feel that the introductory meeting and the meeting to put forth the preferred resource portfolio are not wholly sufficient to allow good stakeholder input into the IRP process. We think a good time for additional formal stakeholder input is after the utility has done the resource assessment (4-7-6) and selection (4-7-7), but before the final decision has been made on which of the candidate resource proposals is preferred, rather than after. If stakeholder participation is going to have its intended purpose of providing input and critique of the methodological process and assumptions of the resource planning, then it should occur after that has occurred so it can review and reflect on that process but before the utility has made its final decision on a preferred portfolio. After a preferred portfolio has already been chosen, there is a decreased likelihood that stakeholder discussion of the topics in 4-7-2.1 (e)(6) is going to influence any changes from what has already been decided.

**Part (e)(5)**

- We do not feel that a week is sufficient lead time to review and evaluate the agenda and materials in advance of public participation in the IRP process. Two weeks would be better.

**Part (e)(6)**

- Benefits often can greatly outweigh costs for DSM resources. Discussion of costs without simultaneous discussion of benefits can be misleading as to the true value of alternative resources.

<sup>6</sup> Minnesota Rules 7843.0500 COMMISSION REVIEW OF RESOURCE PLANS. Accessed at <https://www.revisor.leg.state.mn.us/rules/?id=7843.0500>

### 170 IAC 4-7-3 WAIVER OR VARIANCE REQUESTS

- We would like to see public notice required for waiver/variance requests similar to notification of the IRP process as found in 4-7-2 (e), as well as a provision for public comment on the same. We feel that this will help hold utilities accountable for their requests to waive/vary the rules and can provide guidance for the director in making their ruling on approval or denial of the request.
- This may necessitate expanding the time period for review of the request to longer than 15 days to allow comments.

### 170 IAC 4-7-4 METHODOLOGY AND DOCUMENTATION REQUIREMENTS

#### Part (a) (13)

- We would like to see the utility's discussion of their IRP development and modeling include discussion of their assumptions and forecasts of DSM resources that they considered and incorporated. This will help the director and others to better understand the baseline assumptions about DSM that went into the models.

### 170 IAC 4-7-5 ENERGY AND DEMAND FORECASTS

#### Part (a)

- We suggest an additional numbered item which we have placed between (7) and (8) in the existing list.
- As was discussed by the speakers at the September 1, 2015 Contemporary Issues Meeting, there are a number of approaches to integrating energy efficiency into load forecasts and the subsequent IRPs, and not all of them are equally effective. With regard to forecasting mechanisms, we would like to reiterate our comments previously submitted on August 31, 2015, in response to RM# 15-06, that Indiana should avoid relying on a process where the IRPs simply 1) deem a certain amount of DSM to be available, 2) reduce the load forecast by that amount, and 3) fill the void with supply-side resources.
- We think, therefore that it is important that the utility be explicit in how it has accounted for existing DSM's effect on historical loads and ongoing lifetime savings from DSM already implemented in developing their forecast loads. (This is also a requirement of 4-7-6 (a)(6) so we do not feel it unduly burdensome to require discussion of it here as well.)

### 170 IAC 4-7-6 RESOURCE ASSESSMENT

#### Part (b)

- In keeping with the definition of "avoided cost" in 4-7-1 (c), we want to make sure that this section does not redefine the avoided costs from what is already defined in 4-7-1.
- The criteria in (b)(1) through (b)(8), if well complied with, will demonstrate that the utility has considered DSM resources along with supply-side resources in their resource assessment. However, as we previously discussed in our comments previously submitted on August 31, 2015, in response to RM# 15-06, requiring that utilities utilize an independently performed potential study, overseen by the utility commission or another state agency, to identify the "reasonably achievable" (see also our notes on 4-7-9 regarding the use of this term) levels of energy efficiency and the DSM resources to meet that goal would ensure that valuable DSM resources are not overlooked in this resource assessment process.

## 170 IAC 4-7-7 SELECTION OF FUTURE RESOURCES

### Part (b)

- Best practice here, as is standard in all other states in the Midwest who require multiple cost-effectiveness tests to be performed, is to specify a single test as the primary test used for screening the cost-effectiveness of energy efficiency programs. Most often in the Midwest this is the TRC or the Societal Cost Test (which the IURC has not included in these rules), but in the case of Michigan it is the PACT (aka UCT). This commission should specify which test is the primary test, rather than requiring all the included tests to have a positive benefit-cost ratio. Multiple tests may be considered by the utility and the commission, but a single test should be named as the primary screen of cost-effectiveness. The risk here is that as written with the required use of the RIM test, valuable cost-effective and even least-cost resources will be excluded because they do not pass that very limited test. The RIM evaluates the change in customer rates in the short-term, but actual customer bill changes are better accounted for by the PACT.
- Since these cost-effectiveness tests measure the ratio of benefits to costs, they should properly be referred to as “benefit-cost” tests, rather than “cost-benefit.”
- The full names of the tests, along with their proper acronyms, should be used in this section, matching the terms as defined in 4-7-1.

### Part (c)

- We understand that different utilities may use different software for their benefit-cost testing, so it is understandable to not require a specific format. However, we feel that it would be important to specify a minimum data requirement to be included in the results. The minimum that we suggest is acceptable here, as shown in the inline edit, would provide sufficient data to be useful to advocates and researchers without being unduly burdensome to the utility since these data are part of the calculations already required. We would like to see full workpapers with all of the costs and benefits itemized – this is standard practice in Minnesota for instance – but at least the top-level benefit and cost data should be included along with the ratios. We would like to see a detailed accounting of non-energy benefits that were included in the calculation of the TRC test to know whether these have been properly considered in the calculations.

### Part (e)

- The commission should recognize that some tests cannot be performed on certain programs – a good example of this is low income programs which have no participant costs and cannot therefore be evaluated using the participant cost test. We want to ensure that if a test cannot be performed because of a particular cost or benefit that can’t be measured, that it can be excluded, but that any tests that are able to be performed with available inputs should still be performed.

## 170 IAC 4-7-8 RESOURCE INTEGRATION

### Part (a)

- We would like to see the utility have a requirement to briefly summarize how stakeholder input from Sec. 2.1 impacted their planning process and ultimate resource selection.

### Part (b)(4)

- Rather than using the vague terminology “to the extent possible” and “economical” here, it seems reasonable to use the industry standard term “achievable” here. “Achievable” is a standard term in energy efficiency and has a generally understood meaning. See our notes on 4-7-9 (2) for further discussion of achievable potential.

- Suggested rewording of list “...demand side management, including energy efficiency and load management, technology relying on renewable resources, cogeneration, distributed generation, energy storage, and transmission...”
- Suggest changing “sources of new supply” to “resources to meet future energy needs” to help emphasize that the demand-side is being considered on the same footing with the supply-side, as equivalent energy resources.

#### Part (b)(5)

- We do not see any reason that the IRP should consider a 20-year horizon for some resources and a limited 10-year horizon for targeted DSM.

### 170 IAC 4-7-9 SHORT TERM ACTION PLAN

#### Part (2)

- Best practices, as we noted in our previous Comments filed August 31, 2015, are that an energy efficiency goal should be based on a clear standard (e.g. a requirement of 1.5% of annual retail energy sales, as seen in Minnesota). If a long-term, annual standard is unworkable or undesired, then a flexible benchmark (e.g. Iowa’s target of 1.5% of annual retail sales with an actual goal set by the commission on a utility-by-utility basis), is a good alternative.
- Though the term “reasonably achievable” used in this section may be consistent with what is written in the legislation, the commission should use these rules to clarify the terminology. Standard industry terminology, as used in energy efficiency potential studies, quantifies three levels of energy efficiency potential – technical potential, that is all energy efficiency is possible given the current level of technology; economically potential, that being the portion of the technical potential that is cost-effective; and achievable potential, that is all of the economic potential is achievable considering the practical realities of existing market and adoption barriers. That “achievable” metric is useful to distinguish it from the theoretical projections, but there can be significant leeway in what is considered achievable, depending on what assumptions are used.<sup>7</sup>
- The best practice in determining what is achievable here would be a statewide, independently-performed energy efficiency/DSM potential study that would clearly set forth an understanding of what could be achieved in the state, and provide a benchmark for comparison with what the utilities propose as achievable DSM in their IRP. The commission or state agency could oversee the development of the potential study, as part of or in addition to the required commission analysis from Ind. Code Sec. 8-1-8.5-3.

### 170 IAC 4-8-1 DEFINITIONS

#### Parts (f) through (h)

- Same notes as for (k) through (m) in 4-7-1.
- These two sets of definitions should be exact matches between the two sections.

#### Part (i)

- These edits clarify the definition as it is presented. We are glad to see that lost revenue and performance incentives have been specifically excluded from this definition. We think it is worth clarifying that it is

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<sup>7</sup> Kramer, C. and Reed, G. 2012. Ten Pitfalls of Potential Studies. Burlington, VT: Regulatory Assistance Project. Accessed at [www.raponline.org/document/download/id/6214](http://www.raponline.org/document/download/id/6214) (p. 17)



referring to utility performance incentives to prevent any assumption that costs would not include incentives paid to customers.

- However, we also feel that it should be clarified that the particular costs that are considered by each cost-effectiveness test are not identical and that a single definition of program costs cannot be applied across the board to cost-effectiveness evaluation since each test, by definition, includes different subsets of all the possible costs that could be considered.
- There is discrepancy between this definition of “DSM program cost” and the definition in 4-7-1 (jj) of “Program cost” which should be fixed. There is no reason that these two sections should be defining the same thing differently. We would like to see the 4-7-1 (jj) definition replaced with the modified version contained here, rather than the other way around.
- It seems that if there is a definition for “DSM program costs” then there should also be a definition for “DSM program benefits” that includes non-energy benefits as required by appropriate cost-effectiveness testing, but this definition is not present.

#### Part (r)

- This is out of order alphabetically and should be between the current (n) and (o).
- Rather than defining the acronym as the spelled out terms, it is more consistent with the other definitions in these sections to spell out the term, include the acronym, and provide a brief definition of what the term means. We included a simple definition of EM&V taken from the US Department of Energy in our edits that we think would be sufficient here.
- There might be opportunity here to expand this definition to reference outside authority on EM&V such as the State & Local Energy Efficiency Action Network (SEEACTION) or definitions used in federal environmental regulations.
- Referencing industry best practices may create greater consistency across the utilities submitting EM&V plans and reports.

### 170 IAC 4-8-3 PURPOSE

#### Part (c)

- We would like to see “as a package” eliminated here. The commission should have the ability to evaluate the proposal as a whole, but also to evaluate and comment on, suggest changes to, or modify individual parts of the proposal to ensure compliance with rules and with best practices. Holding it to a standard of only evaluating the proposal as a package is limiting.
- The term “shareholder DSM incentive” should be changed to “performance incentive” to be consistent with the title and text of section 4-8-7 (which consistently has eliminated the use of “shareholder”).

### 170 IAC 4-8-4 DEMAND-SIDE MANAGEMENT PROGRAM EVALUATION

#### Part (a)

- We suggest referencing the relevant sections here regarding incentives and lost revenue for ease of cross-reference and to provide clarity.
- In subsection (3)(A), data should be tracked for both costs and benefits, not just costs. If free-ridership is being measured, so should spillover.
- “DSM incentive” should be changed “performance incentive” to maintain consistency with 4-8-7.

## 170 IAC 4-8-5 COST RECOVERY

### Part (e)

- We would like clarification of this language.

## 170 IAC 4-8-6 LOST REVENUE

- As previously discussed in our Comments filed August 31, 2015, in response to RM# 15-06, we would like to see the Final Rule limit lost revenues to a specified time frame (e.g. three years or the life of the measure, whichever is shorter, which we and other commenters in the first round noted as a common method of preventing the artificial inflation of lost revenues and the artificial inflation of the cost of energy efficiency programs.) Additionally, utilities should be required to show that DSM programs will cause electricity sales to fall by such an amount that the utility would fail to recover its authorized costs, and a mechanism to “true up” lost revenue adjustments on a periodic basis would level the playing field and make the process fair to both utilities and ratepayers.

## 170 IAC 4-8-7 DEMAND-SIDE MANAGEMENT PERFORMANCE INCENTIVES

### Parts (a) through (h)

- We feel that using the term “performance incentive(s)” throughout this section rather than “financial incentive” is preferable. First, it is consistent with the title of the section, and secondly it emphasizes throughout that this incentive is for the superior performance of the DSM programs, rather than simply a bonus for participation.

### Part (g)

- Spillover is included in the definitions in 4-8-1 and is a component of the net energy savings, and should be accounted for in the EM&V process. It is reasonable to include it here and to use net energy savings of both free ridership and spillover here, rather than net of only free ridership.

## 170 IAC 4-8-9 PROCEDURE FOR DSM PROGRAM APPROVALS

### Part (a)

- To achieve real consistency between IRPs and DSM plans, it would be preferable that the utilities’ DSM plans match the staggered cycle as laid out in 4-7-2, with DSM plans filed the year after the IRP.
- We are unclear about the Dec 31 filing date specified here - whether plans filed on Dec 31, 2017 under this section would be for the year beginning Jan 1, 2018 or a fiscal year start date, or to start on Jan 1, 2019. If the intention is that a plan filed on Dec 31, 2017 would begin operating on Jan 1, 2018 then this leaves no room for review, intervention, or any other regulatory activity.
- We suggest that (consistent with the IRP filing requirement) that DSM plans be filed by Nov 1, rather than Dec 31. We also feel that this section should specify the start date for filings in 2017 (e.g. “file a request for approval...no later than November 1, 2017, to cover DSM programs beginning on Jan 1, 20XX”)
- Initial plans could be filed 2017 to cover the variable time period between that date and the next date for a DSM plan that would fall out from the notes above – for example if Duke Energy is required to file their first IRP in 2015 and their next in 2018 (according to 4-7-2), then their initial DSM plan filing would be filed on Nov 1, 2017 and their next one in 2019 (the year after the IRP) and the subsequent one in 2022, and so forth. This would, after an initial variability, put all the utilities onto a steady and predictable cycle.
- To maintain consistency between utilities, and to create a stable energy efficiency marketplace, we feel that it would serve better here to require plans every three years (rather than “not less than one time every

three years” as written), and it should be specified that the plans are to cover the three-year period until the next plan filing. This avoids situations where one utility might file separate plans every year, another file a two-year plan, then follow with a one-year plan, then file a three-year plan, and so forth.

- An additional clause(s) could be included specifying that utilities could amend their plans for the remainder of their current planning triennium through the docketed filing and approval by the commission. This is consistent with practices in other states in the region for allowing mid-stream changes to energy efficiency plans without throwing off the planning cycle.

#### Part (b)(3)

- As we discussed in 4-7-7 (b), there should be a single primary test – typically either the TRC or the PACT – which is the screening criteria for energy efficiency programs, with additional tests being considered as appropriate. It is not good practice to require a positive result on every test as a screen, especially the RIM.
- We would like to see a requirement here that, as a minimum, cost-effectiveness done at both the individual program level and on the portfolio as a whole. We also think there is value in looking at cost-effectiveness at the customer sector level (i.e. residential, commercial, industrial – or C&I together as is commonly done in DSM programming).
- The inline edits are similar to those suggested for 4-7-7: the tests are properly referred to as “benefit-cost” rather than “cost-benefit,” and the proper names and acronyms for the tests as defined should be used here.
- For consistency with 4-7-7, we made the names lower-case as they were in that section. They could also be all capitalized in both sections, as long as it is consistent.
- We understand that different utilities may use different software for their benefit-cost testing, so it is understandable to not require a specific format. However, we feel that it would be important to specify a minimum data requirement to be included in the results. The minimum that we suggest is acceptable here, as shown in the inline edit, would provide sufficient data to be useful to advocates and researchers without being unduly burdensome to the utility since these data are part of the calculations already required. We like to see full workpapers with all of the costs and benefits itemized – this is standard practice in Minnesota for instance – but at least the top-level benefit and cost data should be included along with the ratios.
- The similar clause found in 4-7-7(c) has a requirement for NPV calculation and discussion of the discount rate. That is appropriate here as well.
- We copied the clause from 4-7-7(e) that allows the exclusion of certain programs from performing cost-effectiveness tests that would be invalid or impossible for that particular program over here as well, as this seems appropriate in this location as well as the other.

#### Part (b)(8)

- As we mentioned for 4-8-4, references to the rule sections for lost revenue and performance incentives is helpful here as a cross reference.
- The term “performance incentive” rather than “financial incentive” should be used here, to maintain consistency in usage with other sections.

#### Additional notes on 4-8-9

- We suggest that, just like 4-7-2 (e) there should be a transparent and robust process for public comments on DSM plans, just like there is with the IRP process. We have copied over the language from that section, with minor edits to change “IRP” to “DSM plan” and remove the edits that were in place in the Strawman draft.

- We have included a non-exclusive list of people we consider interested parties to an energy efficiency proceeding. See also the earlier notes on 4-7-2.