

CHAPTER 12

DEMAND SIDE MANAGEMENT

Authority

N.J.S.A. 48:2-13, 52:27F-1(g) and (q), and 52:27F-18.

Source and Effective Date

R.1996 d.547, effective October 29, 1996.
See: 28 N.J.R. 3890(a), 28 N.J.R. 5092(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 12, Demand Side Management, expires on April 27, 2002. See: 33 N.J.R. 3279(a).

Chapter Historical Note

Chapter 12, Demand Side Management, was adopted as R.1991 d.549, effective November 4, 1991. See: 22 N.J.R. 3616(b), 23 N.J.R. 1283(a), 23 N.J.R. 3368(a). Pursuant to Executive Order No. 66(1978), Chapter 12, Demand Side Management, was readopted as R.1996 d.547, effective October 29, 1996. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. PUBLIC UTILITY PROGRAMS

14:12-1.1 Purpose and scope

The rules in this chapter are designed to encourage and promote cost-effective investment in demand side management initiatives. These rules are intended to foster the penetration and use of energy efficiency technologies applicable to the use and supply of electric and gas energy in the State. One mechanism to encourage cost-effective investment in such demand side initiatives is the provision of financial incentives to electric and gas utilities with respect to investment aimed at fostering the increased use of energy efficiency technologies. Increased energy efficiency is regarded as a viable alternative to the construction or procurement of new electric and gas supply sources. These rules are designed to put in place mechanisms which permit utilities to earn financial returns equivalent to or, in recognition of the potential positive impact on society, greater than, the returns provided on utility owned supply side projects. The rules are also designed to create an environment for utilities to utilize their resources and unique position as major energy providers in the State to foster increased energy efficiency. Finally, the rules are intended to provide significant opportunities for the delivery of energy efficiency services and measures by independent non-utility energy service companies, contractors and suppliers.

Amended by R.1996 d.547, effective December 2, 1996.
See: 28 N.J.R. 3890(a), 28 N.J.R. 5092(a).

14:12-1.2 Definitions

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

“Avoided cost savings” means the level of fuel, operation and maintenance, labor costs, capital costs, taxes and any other costs which the utility avoids having to incur as a result of displacement of customer demands through demand side management efforts.

“Block size” means an overall target of energy and capacity savings.

“Board” means the New Jersey Board of Public Utilities.

“Core Programs” means a set of conservation programs required to be performed by the utilities and which are not subject to the incentive provisions established in N.J.A.C. 14:12-3.1(a). The Core Programs shall constitute activities undertaken by the utility in order to foster the dissemination of energy efficiency information to the public as well as to accomplish certain socially desirable or other public benefit goals.

“Demand side management (DSM)” means the management of a public utility’s existing and/or future capacity

and/or energy needs through the implementation of cost-effective energy efficiency technologies, including, but not limited to, installed conservation, load management and energy efficiency measures in the residential, commercial, industrial, institutional and governmental premises and facilities in the State.

“Demand Side Management Program (DSM Program)” means the provision of program measures by a utility, directly or indirectly, pursuant to a DSM Plan at a utility’s delivery system and/or one or more participants’ premises and/or facilities.

“Demand Side Management Resource Plan (DSM Plan)” means a comprehensive presentation of a utility’s demand side management activities over a specified period as well as mechanisms for DSM program cost and revenue erosion recoveries and incentive mechanisms to encourage DSM activities as specified in N.J.A.C. 14:12-2, 3 and 4.

“Energy service company (ESCO)” means a company which provides energy efficiency and load management equipment and/or services to end user customers.

“Fixed cost revenue erosion” means the reduction in contribution towards a utility’s fixed costs resulting from a reduction in energy usage or billing demand which results from a DSM Program. This figure is determined on a per unit basis by taking total test year retail revenues minus the sum of the test year expenses set out below and dividing that difference by total test year retail sales:

1. Gross receipts and franchise taxes or other variable tax included in the utility’s rates;
2. Fuel costs; and
3. Any other variable costs which may be approved by the Board.

“Free rider effects” means energy and capacity savings resulting from measures which would have been implemented even in the absence of the utility DSM Plan.

“Fuel Adjustment Clause” means an electric utility’s Levelized Energy Adjustment Clause (LEAC) or successor clause or a gas utility’s Levelized Gas Adjustment Clause (LGAC) or successor clause.

“Measurement plan” shall have the meaning set forth in N.J.A.C. 14:12-3.6.

“Participant” means the end user at whose site a DSM Program measure has been installed or rendered.

“Penetration levels” means the number of participants in a particular program relative to total eligible customers for that program.

“Performance-based programs” means a set of conservation programs which are subject to the incentive provisions established in N.J.A.C. 14:12-3.1(a).

“Program measure” means the particular device, technology service, or system, or combination thereof, being offered pursuant to a DSM Plan, to be installed or rendered in a participant’s premises and/or facilities or in the utility’s energy delivery system.

“Public utility” or “utility” means all electric and gas utilities as defined by N.J.S.A. 48:2-13, excluding municipally owned electric or gas utilities. A “public utility” or “utility” shall not be deemed to include a subsidiary or affiliate of a public utility or utility.

“Test year sales” means the level of kwh or therms utilized by the Board to set rates in the utility’s most recent base rate proceeding.

“Total Resource Cost Test” means a comparison of the avoided cost savings (including line loss factors and reserve margin savings), incidental savings and environmental externalities to the utility program costs plus net participant costs. Incentive payments to customers are not included in this test because they are considered to be a transfer payment.

“Unit” means a unit of measure of energy expressed as one kilowatt-hour (kwh) in the case of electricity, and one therm in the case of gas.

Amended by R.1993 d.96, effective March 1, 1993.

See: 24 N.J.R. 2804(a), 25 N.J.R. 1000(a).

Amended “fixed cost revenue erosion.”

Amended by R.1996 d.547, effective December 2, 1996.

See: 28 N.J.R. 3890(a), 28 N.J.R. 5092(a).

SUBCHAPTER 2. DEMAND SIDE MANAGEMENT RESOURCE PLAN

14:12-2.1 Filing

Every utility shall file, within two years of the Board’s approval date of its last approved DSM Plan pursuant to N.J.A.C. 14:12, a DSM Plan for review and approval by the Board. The Board, however, for good cause, may alter the time for filing. The Board, for reasons such as current DSM Plan success or the need for additional evaluation time, may extend the time for filing, on not less than four months notice. Should the Board direct a utility to file its DSM Plan prior to the end of the two year period, it shall be done only upon a six month notice to the affected utility.

Amended by R.1994 d.82, effective February 22, 1994.

See: 25 N.J.R. 5111(a), 26 N.J.R. 1109(a).

Amended by R.1996 d.547, effective December 2, 1996.

See: 28 N.J.R. 3890(a), 28 N.J.R. 5092(a).

14:12-2.2 Plan elements

(a) The DSM Plan shall consist of the following elements, each of which shall be accompanied by technical support sufficient to provide the Board with a basis to evaluate the DSM Plan:

1. A forecast of overall energy and capacity savings including a target which establishes and specifies an overall energy and capacity savings goal in terms of kilowatt-hours (kwh) and kilowatts (kw) for electric utilities and therms for gas utilities to be achieved by virtue of the DSM Plan, as well as a milestone schedule for attaining the goal;

2. A forecast of the effect of the DSM Plan on the utility's overall peak load and retail energy sales, construction plans, fuel purchase plans, capacity expansion plans, bulk power purchase plans and future capital additions;

3. A list and description of "Performance-Based Programs" which shall present the DSM efforts which the utility intends to implement through its own efforts and/or through the use of ESCOs or contractors over the succeeding two years and for which performance-based incentives will be sought pursuant to N.J.A.C. 14:12-3, accompanied by a proposed budget, and program description including a goal and target market for each sector. DSM efforts proposed by the utility may include investments in increased energy delivery system efficiency in addition to end use efficiency.

4. A list of Core Programs which will be offered by the utility accompanied by a proposed budget, and program description including a goal and target market for each sector. As the benefits to be achieved from Core Programs may transcend a strict economic benefit/cost analysis or be difficult to accurately quantify, the Core Programs shall not be subject to the mechanisms applied to the Performance-Based DSM Programs as set forth in N.J.A.C. 14:12-3 except as provided in (a)4iii, below. Instead, the utilities will be permitted to expense the costs related to operation of the Core Programs on a timely basis through the DSM Cost Recovery Mechanism, as set forth in N.J.A.C. 14:12-4.1.

i. Unless otherwise directed by the Board, a Utility's Core Programs menu must include the following:

(1) A residential energy audit program as described in N.J.A.C. 14:38, or, in the absence of said rule, in a form approved by the Board in accordance with this chapter. However, in order to increase the overall cost effectiveness of the audit program, the utility may incorporate features such as target marketing, and prescreening of applicants.

(2) A Low Income Direct Grant and/or Seal-Up Program;

(3) A commercial and apartment energy audit program in a form approved by the Board, in accordance with this chapter; features similar to those described

in (a)4i(1) above which enhance program cost effectiveness may be incorporated by the utility.

(4) A program encouraging the energy efficient design of new construction;

(5) Informational programs designed to foster conservation awareness;

(6) Educational programs designed to enhance the understanding of energy efficiency in the school systems; and

(7) Other programs as proposed by the utility, any interested person, or by the Board upon its own motion which are ultimately approved by the Board.

ii. Electric utilities shall offer the Core Programs identified in N.J.A.C. 14:12-2.2(a)4i(1),(2) and (3) above to non-gas heated customers.

iii. In filing its DSM Plan, each utility shall have the opportunity to propose one or more Core Programs as a performance based DSM Program, it being the intent of this section not to preclude the opportunity to earn incentives if an adequate measurement plan is provided by the utility.

5. For each Performance-Based DSM Program and Core Program, the DSM Plan shall include the following:

i. A program implementation plan, which shall include:

(1) The anticipated manner of the marketing and installation of program measures;

(2) The specific role of the utility, ESCOs and contractors in implementing a DSM Program or in marketing, supplying, installing or maintaining program measures;

(3) A description of the selection process to be employed, with respect to the use of ESCOs and/or contractors and the standards to which the ESCOs and/or contractors will be held in performing work; and

(4) An analysis of the impact of the program on the competitive aspects of existing market infrastructures involved in the sales and installation or other provision of similar measures and/or services.

ii. A detailed description of the customer base which the program will target;

iii. The DSM Program measures to be offered;

iv. The commitments or contributions which will be expected of customers; and

v. The penetration levels and overall energy and capacity savings expected to be achieved by each program.

6. Each utility must prepare an Executive Summary of its DSM Plan filing which provides a brief overview of the DSM Plan including:

- i. An overall target of energy and capacity savings;
 - ii. A brief description of the DSM Programs and Core Programs offered, including the manner of implementation, the projected savings and a measurement plan;
 - iii. An incentive mechanism and/or standard price offer description;
 - iv. The basis for the incentives or standard offer, including a summary of avoided costs;
 - v. A cost recovery mechanism as provided for under N.J.A.C. 14:12-4.1; and
 - vi. A revenue adjustment mechanism as may be proposed as provided for under N.J.A.C. 14:12-4.3.
7. Each utility must demonstrate an effort to offer DSM Program opportunities to all sectors of its customer base, or demonstrate why such a broad spectrum is not achievable.

8. A utility that opts for the standard offer approach pursuant to N.J.A.C. 14:12-3.5 shall include in its plan a proposed block size, methodology for accepting proposals and filling the block, standard contract terms and conditions, and minimum requirements for participation.

Amended by R.1996 d.547, effective December 2, 1996.
See: 28 N.J.R. 3890(a), 28 N.J.R. 5092(a).

Case Notes

Management audit of electric and gas utility; the Board ordered implementation of all but three of 119 recommendations. In Matter of Board's Determination that Management Audit be Performed on Operating Procedures of Public Service Electric & Gas Utility. 92 N.J.A.R.2d (BRC) 69.

SUBCHAPTER 3. INCENTIVES

14:12-3.1 Basis for incentives

(a) Unless otherwise approved or directed by the Board, the basis for the opportunity to earn an incentive shall take one of the following formats:

1. A shared savings approach as set forth in N.J.A.C. 14:12-3.4; or
2. A standard price offer as set forth in N.J.A.C. 14:12-3.5.

14:12-3.2 Net benefits

(a) Net benefits of the program shall be defined as the difference between the net present value of benefits associated with the program and the net present value of program costs.

(b) The net benefits calculation can be expressed utilizing the following formula: