278.285 Demand-side management plans -- Review and approval of proposed plans and mechanisms -- Assignment of costs -- Home energy assistance programs.

(1) The commission may determine the reasonableness of demand-side management plans proposed by any utility under its jurisdiction. Factors to be considered in this determination include, but are not limited to, the following:

    (a) The specific changes in customers' consumption patterns which a utility is attempting to influence;

    (b) The cost and benefit analysis and other justification for specific demand-side management programs and measures included in a utility's proposed plan;

    (c) A utility's proposal to recover in rates the full costs of demand-side management programs, any net revenues lost due to reduced sales resulting from demand-side management programs, and incentives designed to provide positive financial rewards to a utility to encourage implementation of cost-effective demand-side management programs;

    (d) Whether a utility's proposed demand-side management programs are consistent with its most recent long-range integrated resource plan;

    (e) Whether the plan results in any unreasonable prejudice or disadvantage to any class of customers;

    (f) The extent to which customer representatives and the Office of the Attorney General have been involved in developing the plan, including program design, cost recovery mechanisms, and financial incentives, and if involved, the amount of support for the plan by each participant, provided however, that unanimity among the participants developing the plan shall not be required for the commission to approve the plan;

    (g) The extent to which the plan provides programs which are available, affordable, and useful to all customers; and

    (h) Next-generation residential utility meters that can provide residents with amount of current utility usage, its cost, and can be capable of being read by the utility either remotely or from the exterior of the home.

(2) A proposed demand-side management mechanism including:

    (a) Recover the full costs of commission-approved demand-side management programs and revenues lost by implementing these programs;

    (b) Obtain incentives designed to provide financial rewards to the utility for implementing cost-effective demand-side management programs; or

    (c) Both of the actions specified

may be reviewed and approved by the commission as part of a proceeding for approval of new rate schedules initiated pursuant to KRS 278.190 or in a separate proceeding initiated pursuant to this section which shall be limited to a review of demand-side management issues and related rate-recovery issues as set forth in subsection (1) of this section and in this subsection.

(3) The commission shall assign the cost of demand-side management programs only to the class or classes of customers which benefit from the programs. The commission

shall allow individual industrial customers with energy intensive processes to implement cost-effective energy efficiency measures in lieu of measures approved as part of the utility's demand-side management programs if the alternative measures by these customers are not subsidized by other customer classes. Such individual industrial customers shall not be assigned the cost of demand-side management programs.

(4) Home energy assistance programs may be part of a demand-side management program. In considering a home energy assistance program, the commission shall only utilize the criteria set forth in subsections (1)(f) and (3) of this section.

> **Effective:** February 25, 2010
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> **History:** Repealed and reenacted 2010 Ky. Acts ch. 5, sec. 18, effective February 25, 2010. -- Amended 2008 Ky. Acts ch. 139, sec. 19, effective July 15, 2008. -- Amended 2001 Ky. Acts ch. 11, sec. 2, effective June 21, 2001. -- Created 1994 Ky. Acts ch. 238, sec. 2, effective July 15, 1994.
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> **Legislative Research Commission Note** (2/25/2010). 2010 Ky. Acts ch. 5, sec. 28, provides that the repeal and reenactment of this section in that Act "shall apply retroactively to July 15, 2008."