STATE ELECTRIC EFFICIENCY REGULATORY FRAMEWORKS

IEE Report
July 2013

IEE | INNOVATION ELECTRICITY EFFICIENCY
An Institute of The Edison Foundation

EXECUTIVE SUMMARY: STATE ELECTRIC EFFICIENCY REGULATORY FRAMEWORKS

This report summarizes ongoing and recent policy developments that support utility investments in electric efficiency programs, including program cost recovery, fixed cost recovery, and performance incentives for electric utilities on a state-by-state basis.

Supportive regulatory frameworks are the key to expanding the electric power industry's already large commitment to energy efficiency even further. Through them, the power industry can fully and seamlessly integrate electric efficiency programs into their long-term financial and system planning. And through these regulatory frameworks, the nation's homes and businesses will be able to continue to benefit from electric efficiency far into the future.

Since the last IEE update (July 2012), several states have expanded the business environment to support investments in efficiency programs by electric utilities.

- In total, 32 states have approved fixed cost recovery mechanisms – 14 with revenue decoupling and 18 with lost revenue adjustment mechanisms. This is up from 27 states in 2012. Three additional states have open cases that await a decision by their respective regulators.
- 18 states have lost revenue adjustment mechanisms, including Missouri and Louisiana, which received approval recently. Two additional states – Mississippi and Virginia – await regulatory approval of lost revenue adjustment mechanisms.
- 14 states have electric decoupling mechanisms, including Washington, which received approval recently. Delaware awaits a decision on its proposed decoupling mechanism.
- In total, 28 states currently have performance incentives in place. This is up from 23 states in 2012. The states with recently approved performance incentives include Alabama, the District of Columbia, Louisiana, Missouri, and South Dakota. An additional three states – Mississippi, Montana, and West Virginia – are evaluating performance incentives.

Table 1. Summary of State Regulatory Frameworks: July 2013*

Summary of State Regulatory Frameworks: July 2013*			
Energy Efficiency Incentive Mechanism		Number of States	Pending
Fixed-Cost Recovery Mechanisms	Lost Revenue Recovery	18	2
	Revenue Decoupling	14	1
Performance Incentives		28	3

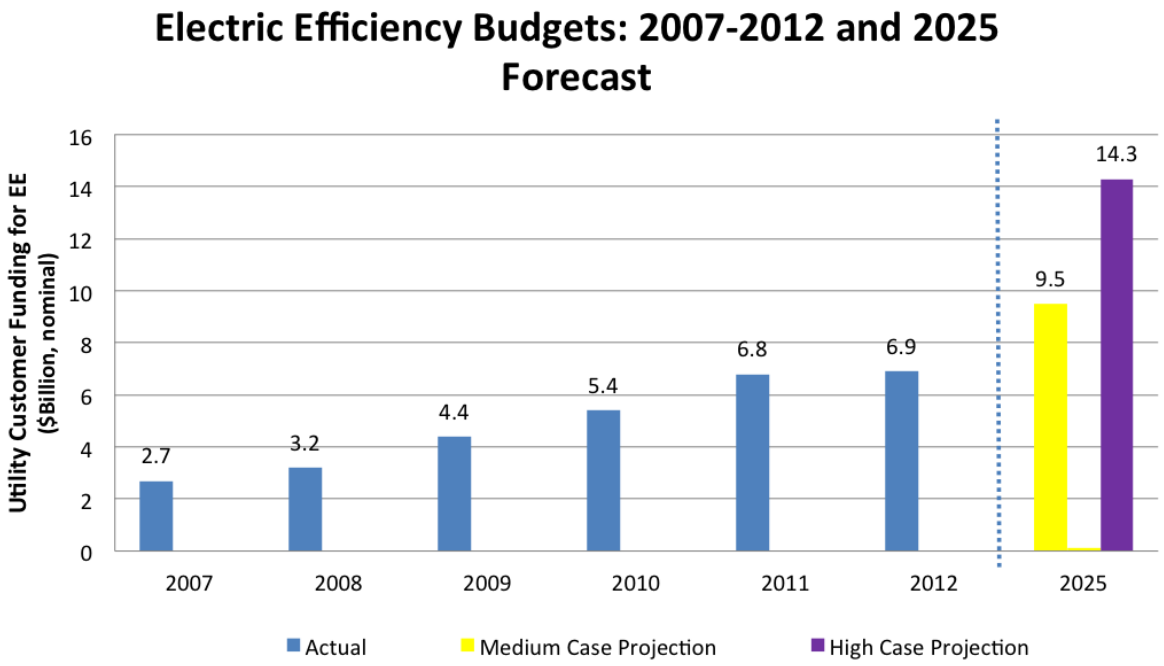
* To avoid double-counting, Ohio is included as an approved decoupling state.

For utilities to treat electric efficiency programs as equivalent to supply-side investments from a financial perspective, three types of regulatory mechanisms are critical: direct cost recovery, fixed cost recovery, and performance incentives.

- **Direct Cost Recovery** refers to regulator-approved mechanisms for the recovery of costs related to the administration of the efficiency program by the administrator, implementation costs such as marketing, and the actual cost of product rebates and mid-stream product buy-downs. Such costs are recovered through rate cases, system benefits charges, and tariff rider/surcharges.
- **Fixed Cost Recovery** refers to decoupling and lost revenue adjustment mechanisms that assist the utility in recovering the marginal revenue associated with fixed operating costs. Rate making practices tie the recovery of fixed costs to volumetric consumption charges with rates set upon an assumed level of energy sales. The purpose of electric efficiency programs is to reduce the consumption of electricity; decoupling and lost revenue mechanisms allow for timely recovery of fixed costs.
- **Performance Incentives** are mechanisms that reward utilities for reaching certain electric efficiency program goals, and, in some cases, impose a penalty for performance below the agreed-upon goals. Performance incentives allow for utilities to earn a return on their investment in electric efficiency, typically similar to the return on supply-side investments.

Spending and budgets for customer-funded, utility electric efficiency programs continue to grow, due in part to the evolution of state policies that allow utilities to pursue efficiency as a sustainable business. In fact, according to a recent IEE report, utility company electric efficiency budgets in 2012 totaled $6.9 billion, a 27 percent increase above 2010 levels. By 2025, IEE predicts that electric efficiency budgets will exceed $14 billion.

Figure 1. U.S. Electric Efficiency Budgets (2007-2012) and 2025 Forecast



Source: IEE, Summary of Ratepayer-Funded Electric Efficiency Impacts, Budgets, and Expenditures (2011-2012), March 2013.

Since the last issue of IEE's State Electric Efficiency Regulatory Frameworks (July 2012), the following categorical clarifications occurred:

- Florida's pending performance incentive has been dropped.
- Idaho's pending performance incentive has been dropped.
- Kansas' pending performance incentive has been dropped.
- Michigan's decoupling status has been dropped.
- Minnesota's pending decoupling status has been dropped.
- New Hampshire's pending decoupling status has been dropped.
- New Mexico's pending decoupling mechanism has been clarified as an approved lost revenue adjustment mechanism.
- Utah's pending decoupling, lost revenue adjustment mechanism, and performance incentive have been dropped.

The remainder of this report provides detailed state-by-state information on regulatory decisions that support customer-funded electric efficiency, current as of July 2013.

For inquiries, please contact Adam Cooper, Research Manager, at acooper@edisonfoundation.net. For further information, please visit http://www.edisonfoundation.net/IEE.

State Regulatory Framework Summary Table

State	Direct Cost Recovery			Fixed Cost Recovery		Performance Incentives
	Rate Case	System Benefits Charge	Tariff Rider/ Surcharge	Decoupling	Lost Revenue Adjustment Mechanism	
Alabama	Yes		Yes		Yes	Yes
Alaska						
Arizona		Yes	Yes		Yes	Yes
Arkansas			Yes		Yes	Yes
California	Yes	Yes	Yes	Yes		Yes
Colorado	Yes		Yes		Yes	Yes
Connecticut		Yes		Yes		Yes
Delaware	Yes		Yes	Pending		
District of Columbia		Yes	Yes	Yes		Yes
Florida			Yes			
Georgia	Yes		Yes		Yes	Yes
Hawaii	Yes	Yes		Yes		Yes
Idaho			Yes	Yes		
Illinois			Yes			
Indiana			Yes		Yes	Yes
Iowa			Yes			
Kansas			Yes		Yes	
Kentucky			Yes		Yes	Yes
Louisiana	Yes				Yes	Yes
Maine		Yes				
Maryland			Yes	Yes		
Massachusetts		Yes		Yes		Yes
Michigan			Yes			Yes
Minnesota	Yes		Yes			Yes
Mississippi	Yes		Yes		Pending	Pending
Missouri	Yes				Yes	Yes
Montana		Yes	Yes		Yes	Pending
Nebraska						
Nevada			Yes		Yes	
New Hampshire	Yes	Yes				Yes
New Jersey	Yes	Yes	Yes			

State	Direct Cost Recovery			Fixed Cost Recovery		Performance Incentives
	Rate Case	System Benefits Charge	Tariff Rider/ Surcharge	Decoupling	Lost Revenue Adjustment Mechanism	
New Mexico			Yes		Yes	Yes
New York		Yes		Yes		Yes
North Carolina			Yes		Yes	Yes
North Dakota						
Ohio			Yes	Yes	Yes	Yes
Oklahoma			Yes		Yes	Yes
Oregon		Yes		Yes		
Pennsylvania	Yes		Yes			
Rhode Island		Yes		Yes		Yes
South Carolina		Yes			Yes	Yes
South Dakota			Yes		Yes	Yes
Tennessee						
Texas	Yes		Yes			Yes
Utah	Yes		Yes			
Vermont		Yes		Yes		Yes
Virginia			Yes		Pending	
Washington		Yes	Yes	Yes		
West Virginia						Pending
Wisconsin	Yes		Yes	Yes		Yes
Wyoming			Yes		Yes	

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Please note that although information in this document was compiled from primary sources, readers are encouraged to verify the most recent developments by contacting the appropriate commission or regulatory agency.

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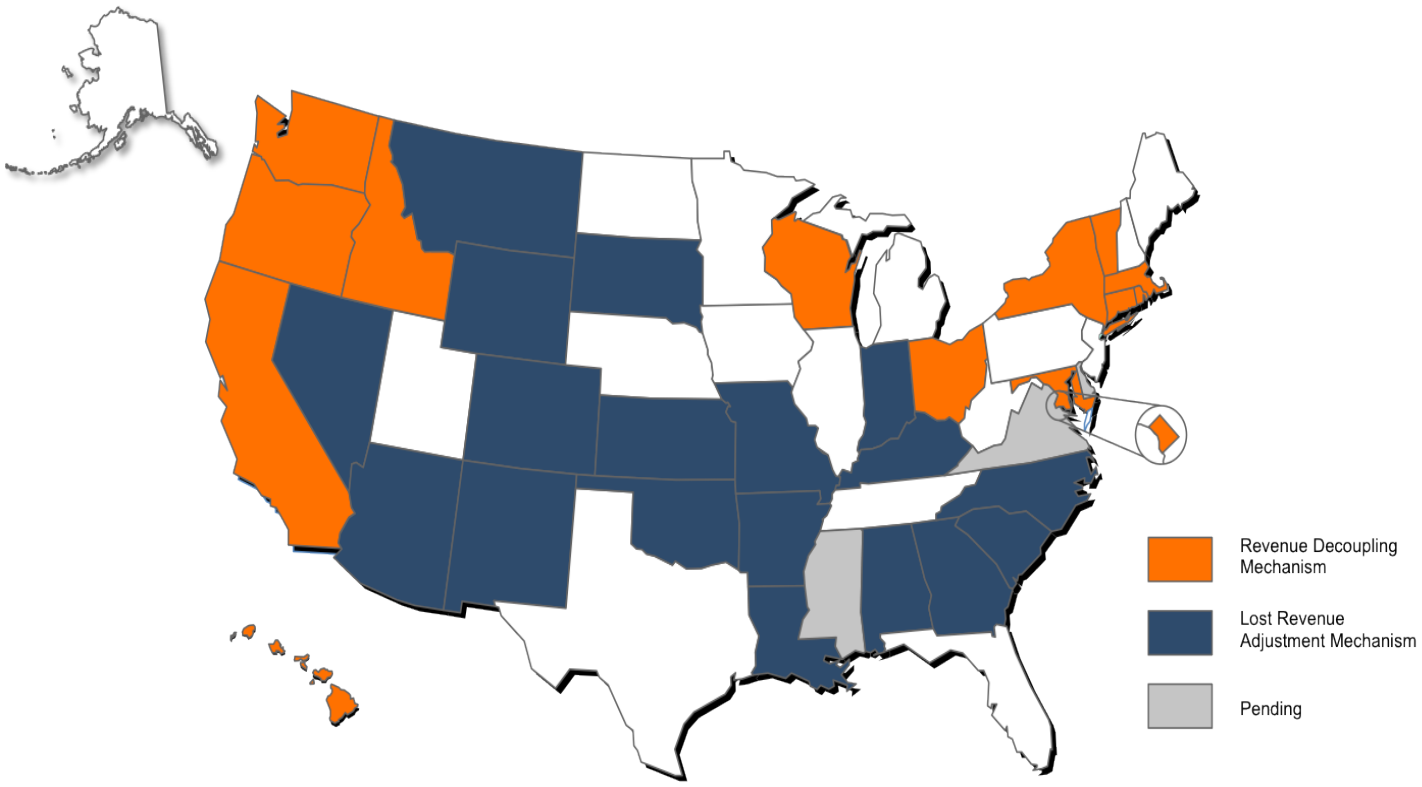
Lost Revenue Adjustment & Revenue Decoupling Mechanisms for Electric Utilities by State



State	Description	Status	Codes, Orders & Resources
Alabama (LR)	Lost revenue due to efficiency programs can be recovered through a rate rider. Rates can also be set annually to allow for recovery of energy efficiency, through a Rate RSE.	Approved	Docket 31045
Arizona (LR)	In May 2012, a lost-fixed-cost recovery (LFCR) was approved, as part of a rate case filed by APS. Lost revenues can be recovered starting July 1, 2012. Utilities can recover a portion of transmission and distribution costs related to sales reduced by efficiency or distributed generation. Recovered revenue can be adjusted annually. The LFCR can be modified by the Commission up to the next APS rate case in 2015. There is a residential opt-out clause to the LFCR, if residents choose the optional Basic Service Charge (BSC) instead.	Approved (2012)	DocketsE-01345A-11-0224; E-01345A-12-0232; Decision #73183

State	Description	Status	Codes, Orders & Resources
Arkanasas (LR)	In 2008 the Arkanasas Public Service Commission opened a docket "for the purpose of exploring and considering possible innovative approaches to traditional ratebase rate of return regulation". This docket includes examination of decoupling/ lost revenues that result from decreases in power usage based on successful energy efficiency and demand response efforts. In December 2010, the Arkanasas Public Service Commission issued Order #14 in Docket 08-137-U approving a proposal by utilities, alllowing them to submit applications within the annual EE tariff filing process to collect "lost contributions to fixed costs" (LCFC) contemporaneously with program implementation. LCFC is based on the best available data, which may include deemed savings, to be followed by an annual EM&V true-up calculation. The LCFC is eligible to be collected upon starting in 2011.	Approved (2010)	Docket 08-137-U, Order No. 14
California	California has had some form of decoupling since 1982. The current "decoupling plus" program is a revenue decoupling program combined with performance incentives for meeting or exceeding energy efficiency targets (performance-based rates). Revenue requirements are adjusted for customer growth, productivity, weather, and inflation on an annual basis with rate cases every three or four years (varies by utility). The incentive structure caps penalties/earnings for energy efficiency programs at $450M.	Approved (Decoupling "Plus" approved in 2007)	Code Sec. 9 Section 739(3) and Sec. 10 Section 739.10 as amended by A.B. XI 29; Decisions 98-03-063 & 07-09-043
Colorado (LR)	A conditional portion of the performance incentive mechanism in Colorado (see p. 12) allows for Xcel to recover a $2M after-tax, "disincentive offset" payment for achieving greater than 80% of the annual energy savings goal.	Approved (2007)	HB-07-1037; Decision C08-560, Docket 07A-420E
Connecticut	As of 2007, all electric and gas utilities must include a decoupling proposal as a part of their individual rate cases. The type of decoupling is assigned on a utility-by-utility basis. United Illuminating is using a full decoupling mechanism, adjusted annually as a pilot. with a $1 million under/over-recovery bandwidth. Connecticut Light & Power was denied a full decoupling mechanism in its last rate case and will continue decoupling through rate design.	Approved (2007)	Public Act No. 07-242; Docket No.08-07-04RE02; Docket No. 09-12-05
Delaware	The Delaware Commission has recognized decoupling as a possible solution for promoting energy efficiency, but no plans have been approved for utilities. Delmarva Power submitted its decoupling plan in its 2009 rate case. The proposed decoupling method was a fixed variable rate design. Docket 09-276T was folded into Docket 09-414T and the docket remains open. Rate design implementation workshops occurred in October 2011, but negative press since has prevented any additional developments.	Pending	Docket 59; Docket 09-276T; Docket 09-414T
District of Columbia	The DC Public Service Commission approved PEPCO's Bill Stabilization Adjustment (BSA) in October 2009. Like the BSA approved for Maryland, an RPC mechanism is employed which adjusts quarterly.	Approved (2009)	PSC Order 1053-E-549

State	Description	Status	Codes, Orders & Resources
Georgia (LR)	Electric utilities are authorized to request a lost revenue adjustment mechanisms through the Georgia Code. This rate for recovery can include programmatic costs plus an "additional sum" for approved efficiency programs.	Approved	Georgia Code 46-3A-9
Hawaii	The Hawaii PUC approved decoupling as a policy in February 2010, but a final order is pending. The utilities have submitted a proposed mechanism which allows for decoupling of revenues from sales, rate base adjustments for O&M costs and planned capital additions, and a mechanism for sharing earnings with rate payers should a company exceed their allowed ROE. True-ups occur annually.	Approved - Pending Final Order	Docket 2008-0274
Idaho	After a five year pilot the Commission approved Idaho Power Company's request to convert Schedule 54, a fixed-cost adjustment (FCA) mechanism from a pilot to an ongoing, permanent schedule. The FCA uses a fixed cost per customer approach. Sales are adjusted for weather and the FCA rate increases are capped at 3% over the previous year. The mechanism is only applied to residential and small general service customers.	Approved (Pilot 2007-2009, extended 2010-2011)	Case No. IPC-E-04-15, Order No. 30267; Case No. IPC-E-09-28, Order No. 31063; Case No. IPC-E-11-19, Order No. 32505, Order No. 32731
Indiana (LR)	The Utility Regulatory Commission approved Duke Energy Indiana and Indiana Michigan Power Company's request to recover lost revenues due to the implementation of a DSM program. Northern Indiana Power & Light, and Indianapolis Power & Light have lost margin recovery mechanisms proposals pending before the Commission.	Approved	Cause No. 43827; Cause No. 43955; Cause No. 43912; Cause No. 43960
Kansas (LR)	Kansas Corporate Commission allows lost revenue adjustment in certain cases. In Docket No: 10-WSEE-775-TAR, Westar was granted a shared savings mechanism, which is similar to lost revenue recovery. The Commission does not favor lost revenue recovery, but will consider it if it achieves established energy efficiency goals.	Approved	Docket No: 10-WSEE-775-TAR; Docket No: 12-GIMX-337-GIV
Kentucky (LR)	Lost revenue recovery mechanisms are determined on a case-by-case basis, but all electric utilities in Kentucky have DSM proposals in place that include similar lost revenue (LR) recovery due to DSM programs. For these utilities, LR is calculated using the marginal rate, net of variable costs, times the estimated kWh savings from a DSM measure over a three-year period.	Approved (2006)	Statute Ch. 278, Title 285; Docket 2007-00477; 2008-00473; 2009-00444; 2010-00445; 2011-00448
Louisiana (LR)	In December 2012, the Louisiana Public Service Commission (PSC) approved a plan to give utilities a year to develop energy efficiency programs for their ratepayers. The Commission reversed its decision in February 2013, but again agreed to revisit the initiative in May 2013 after several consumer and environmental groups filed suit. In June 2013, the PSC voted to reinstate the initiative.	Approved (2013)	Docket R-31106
Maryland	A plan to employ revenue decoupling for Maryland utilities under an RPC mechanism was approved in 2007, which adjusts quarterly. The mechanism is similar to the BSA approved for Washington, DC.	Approved (2007)	PSC Case No. 9093; Order 81518; Case No. 9154

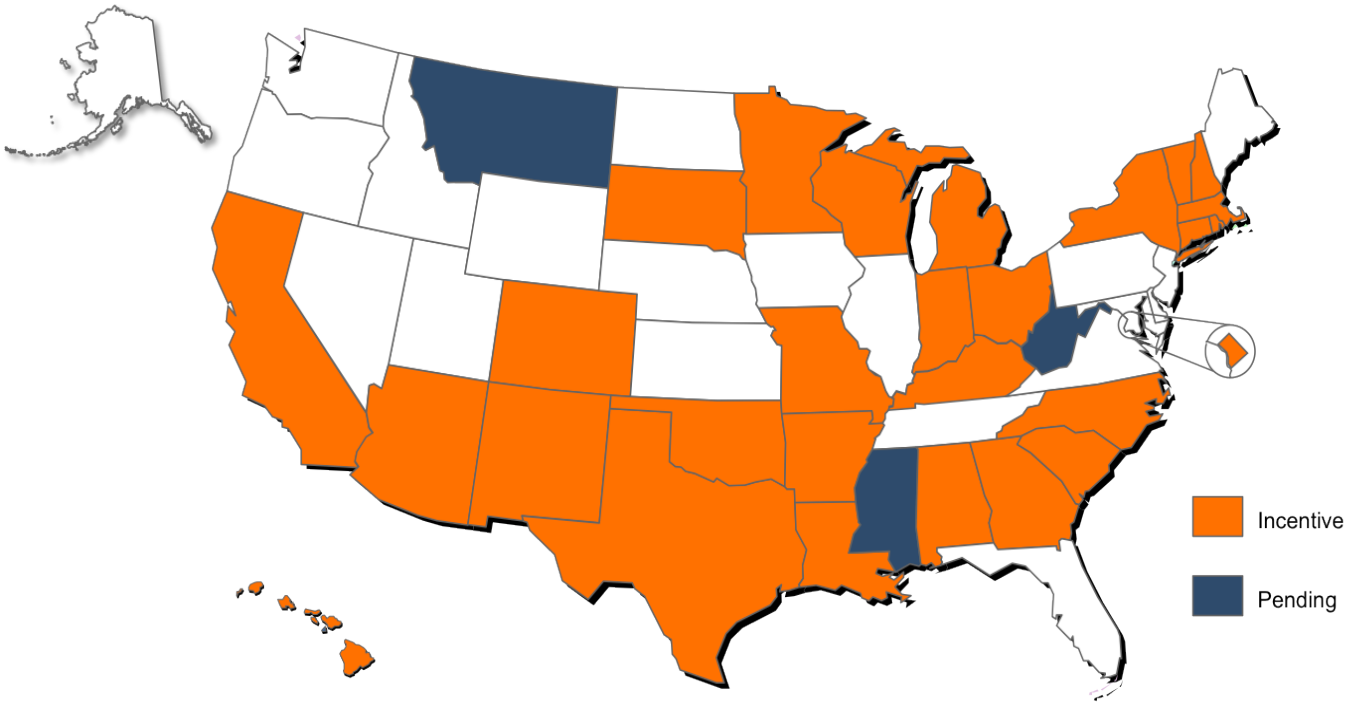
State	Description	Status	Codes, Orders & Resources
Massachusetts	Gas and electric utilities in Massachusetts must include a decoupling proposal in their next rate case. Target revenues are determined on a utility-wide basis (full decoupling) and can be adjusted for inflation or capital spending requirements if necessary. The Massachusetts DPU expects that all utilities will have fully operational decoupling plans by 2012. In May 2009, National Grid was the first utility to submit a revenue decoupling ratemaking plan (RDR), which proposes an RPC mechanism that adjusts annually.	Approved (2008), full implementation by 2012	Docket 07-50; Docket 09-39
Mississippi (LR)	In July 2013, the Mississippi Public Service Commission issued a final order in Docket No. 2010-AD-2, adding Rule 29, related to the Conservation and Energy Efficiency Programs. Section 106 in Rule 29 defines energy efficiency program costs as the incremental program costs that are not already included in the then-current utiity rates and the lost contribution to fixed costs associated with approved energy efficiency programs. Cost recovery shall include full and timely recovery of incremental program costs and the lost contribution to fixed cost.	Pending	Docket No. 2010-AD-2
Missouri (LR)	In 2011, the Missouri Energy Efficiency Investment Act authorized utilities to file plans to recover a portion of the net benefits of demand-side energy efficiency programs. Ameren Missouri and KCP&L GMO LR rate cases were approved in late 2012. Two other cases - Kansas City Power & Light Company and The Empire District Electric Company - were withdrawn in 2012, and is likely they will refile by 2014.	Approved (2012)	SB376; Case No. EO 2012-0142; Case No. EO 2012-0166; Case No. EO-2012-0009; Case No. EO-2012-0175
Montana (LR)	In December 2005, the MT PSC approved Northwestern Energy's petition for a lost transmission and distribution revenue recovery mechanism. Under the mechanism, lost revenues due to DSM acquisition efforts are factored into rates monthly as part of Northwestern's default supply cost tracker. The estimated lost T&D revenue amount is then trued-up annually based on actual program activity following a comprehensive program evaluation and independent verification of actual savings, which must be filed with the Commission. NWE must consult with its advisory committee on the selection of an independent contractor to evaluate DSM programs and the scope of work. In December 2010, the Commission granted NorthWestern Corp. a decoupling mechanism as part of its electric rate case. NorthWestern filed a motion for reconsideration, leaving the docket open and the implementation of decoupling pending further action.	Approved (LR, 2005)	Dockets D2004.6.90 and D2010.5.50 Docket D2009.9.129
Nevada (LR)	In June 2010, the Nevada PUC approved NV Energy's proposal for a lost revenue recovery mechanism. Approved to implement the legislative directives of S.B. 358 (section 11.3), the mechanism calls for monthly lost revenue trackers with an annual true-up subject to measurement and verification of effects on utility revenue caused or created by energy efficiency and conservation programs.	Approved (2010)	Docket 09-07016; Docket 10-10024; Docket 10-10025; and S.B. 358

State	Description	Status	Codes, Orders & Resources
New Mexico	HB 305, the Energy Efficiency Bill, was signed into law in 2008, requiring that all utilities to include cost-effective energy efficiency and load management portfolios and to remove regulatory disincentives for these programs. As a result, in 2010, the NM Public Regulation Commission instituted an adder for all utilities. The adder comprised of a lost revenue adjustment and a performance premium, combined into a single payment. In July 2011, the New Mexico Supreme Court vacated the adder, stating that it must be cost-based and that each utility must file individually. In November, 2011, the Commission issued orders that PNM and El Paso Electric are authorized to continue collecting the adder. Southwestern Power Service did not file for an adder in its 2011 energy efficiency program filing. HB 267, which becomes effective July 1, 2013, amends HB 305 and includes a fixed tariff rider (3% of revenues) to help fund efficiency programs. The bill also switched the cost-benefit test from Total Resource Cost (TRC) to the Utility Cost (UC) model. Finally, the bill reduced the requirement for energy savings by 2020 from 10% to 8% of 2005 retail sales following a compromise between the Commission, utilities, and interest groups.	Approved (2011)	HB 305 (2008); Dockets 08-00024-UT, 10-00086-UT, 10-00280-UT, 11-00047-UT, 12-00317-UT; SEC 10K Sept 30, 2012 PNM filing
New York	Following an April 2007 order, electric and gas utilities must file proposals for true-up based decoupling mechanisms in ongoing and new rate cases. Proposals have been approved for Consolidated Edison and Orange & Rockland utilities, both for revenue-per-class mechanisms. True-ups occur annually.	Approved (2007)	Cases 03-E-0640, 07-E-0949, & 07-E-0523
North Carolina (LR)	The Commission approved a proposed lost revenue adjustment mechanism for Progress Energy Carolinas as part of their cost recovery mechanism. Net lost revenues for each annual period are recovered over 3 years and determined by multiplying lost sales by a net lost revenue rate, which is the difference between the average retail rate applicable to the customer class impacted by the measure and (1) the related customer charge component of that rate, (2) the fuel component of the rate, and (3) the incremental variable O&M rate. True-ups occur annually. The Commission also approved a similar mechanism for Duke Energy Carolinas in December 2009 for energy efficiency measures only, coinciding with the approval of the utility's virtual power plant mechanism.	Approved (2009)	Docket E-2, Sub 931; Docket E-7, Sub 831

State	Description	Status	Codes, Orders & Resources
Ohio (D, LR)	Lost revenue recovery mechanisms are determined on a case-by-case basis. Duke Energy Ohio recovers lost revenues resulting from their portfolio of EE programs through the DSM rider. LR is calculated as the amount of kWh sales lost due to the DSM programs times the energy charge for the applicable rate schedule, less variable costs, divided by the expected kilowatt-hour sales for the upcoming 12 month period. They are collected over a 36 month period. The Commission ordered AEP Ohio to develop a 3 year decoupling pilot program for 2012-2014. In this pilot there shall be no cap of annual rate decreases to customers; however, annual increases attributable to the pilot shall be capped at 3 percent of the total annual distribution revenues for a customer class. Duke Energy Ohio has a distribution revenue adjustment mechanism for large non-residential customers and distribution revenue decoupling for residential and small non-residential customers.	Approved (2007)	ORC §4928.143(B)(2)(h); 06-0091-EL-UNC; Case No. 11-3549-EL-SSO Case No. 11-0351-EL-AIR
Oklahoma (LR)	OG&E has direct lost revenue adjustment ("Class Lost Revenue Factor") built in to the approved demand program rider (DPR) structure, which includes a shared savings mechanism (see p. 15). As the name implies, LR amounts are examined by customer class.	Approved (2009)	Cause No. PUD 200800059, Order 556179
Oregon	Portland General Electric was approved for a two year pilot employing an RPC decoupling mechanism. True-ups will occur annually.	Approved - Pilot (2009)	Order 09-020
Rhode Island	May 2010, the Rhode Island passed the Decoupling Act (R.I.G.L. §39-1-27.7.1), mandating that Narragansett Electric Co., a subsidiary of National Grid Group Plc., decouple its revenues from sales. In October 2010, National Grid filed a request with the Rhode Island Public Utilities Commission to implement revenue decoupling mechansims for its electric and gas operations. In May 2012, order 20745 was issued approving National Grid's RDM proposal. It is retroactive to April 2011 and an adjustment factor is to be annually.	Approved (2012)	(R.I.G.L. §39-1-27.7.1) Docket No. 4206, Order 20745
South Carolina (LR)	The Commission approved a proposed lost revenue adjustment mechanism for Progress Energy Carolinas as part of their cost recovery mechanism. Net lost revenues for each annual period are recovered over 3 years and determined by multiplying lost sales by a net lost revenue rate, which is the difference between the average retail rate applicable to the customer class impacted by the measure and (1) the related customer charge component of that rate, (2) the fuel component of the rate, and (3) the incremental variable O&M rate. True-ups occur annually.	Approved (2009)	Docket 200-251-E

State	Description	Status	Codes, Orders & Resources
South Dakota (LR)	Beginning in 2010, the SD utilities switched from receiving performance incentives to receiving a fixed percentage of lost revenues. MidAmerican and OtterTail Power converted in 2010 and 2011, respectively. Black Hills and Xcel Energy began recovering in 2011 as well. NorthWestern Energy is expected to file a lost revenue mechanism in the near future. All programs are still in the pilot phase and have not been incorporated into the base rate cases yet. They all allow for riders with annual true-ups for the recovery of lost revenues.	Approved (2010)	Dockets EL11-012; GE10-001; EL11-002; EL11-013; GE12-001
Vermont	An RPC decoupling program was approved for Green Mountain Power under the Alternative Regulation Plan. Rates can be adjusted up to four times per year with an annual reconciliation on allowed earnings. Changes in base rates cannot exceed ~2% per year. CVPS was also approved for decoupling in 2008.	Approved (2007)	Dockets 7175, 7176 & 7336
Virginia (LR)	Virginia Code Section 56-585.1 allows for revenue recovery related to energy efficiency programs. In 2010 and 2011, Dominion Virginia Power applied for lost revenue recovery but was denied both times. The Comission did not find the calculation of lost revenues specific enough and lacked adequate evidence linking these lost revenues back to energy efficiency programs	Pending (2010)	Docket: PUE-2010-00084; Docket: PUE-2011-00093
Washington	The Washington Utilities and Transportation Commission (WUTC) approved decoupling mechanisms for PSE on June 25, 2013. The commission will allow PSE to increase rates by 3.34% this year, and over the next 3-4 years, a maximum of 3% of its revenue with any excess amounts above the 3% recovered in the following year.	Approved (2013)	Docket UE-121373
Wisconsin	Decoupling was approved for WPSC in December 2008 (specified as a "Revenue Stabilization Mechanism"), allowing the utility to pursue a four-year pilot program. WPSC is required to pursue three community-based pilots, which will be regularly reviewed (at 2, 12, 24, and 30 months). True-ups occur annually and over- or under-collection is capped at approximately $14 million.	Approved - Pilot (2008)	Dockets 6680-UR-116 (WPL) & 6690-UR-119 (WPSC)
Wyoming (LR)	A tracking adjustment mechanism that includes direct lost revenue recovery was approved for a small service territory covered by Montana Dakota Utilities. The adjustment applies to all MDU customers to recover costs and lost revenues for load management programs only.	Approved (2007)	Docket No. 20004-65-ET-06

EE Performance Incentives for Electric Efficiency Providers by State



State	Performance Incentive Description	Status	Relevant Statute, Code or Order
Alabama	Alabama Power is able to recover a "reasonable rate of return" on efficiency program spending through a rate rider.	Approved	Docket 31045
Arizona	Arizona Public Service (APS), Tucson Electric Power (TEP), and UniSource all have have performance incentives in place under a shared savings mechanism, set at a percentage of DSM program net economic benefits and capped at a percentage of total DSM expenditures. The percentages are dependent on achievemnt relative to energy efficiency goals. Each incentive is independently determined based on the utility's rate case.	Approved (2005)	Decision 67744, Docket E-01345A-05-0816, et al
Arkansas	In 2010, the Commission issued Order No. 15, approving performance incentives through a shared savings of net benefits approach. 10% of net benefits will be awared to a utility for achievement above 80% of the savings goal. Total incentive rewards are capped at 5% of proposed budget for achievement between 80% and 100% of goal; 7% of budget for achievement between 100% and 110% of goal. Net benefits shall be based on a TRC test. EE program portfolio goals as a percentage of 2010 energy sales are: 2011: 0.25%, 2012: 0.50%, 2013: 0.75%	Approved (2010)	Docket 08-137-U, Order No. 15

State	Performance Incentive Description	Status	Relevant Statute, Code or Order
California	California utilities earn an incentive on energy efficiency programs under a shared savings mechanism called an energy efficiency risk-reward incentive mechanism. Revenue from eligible energy efficiency programs is the product of the Earnings Rate (ER) and net benefits. The ER is 12% if the utility achievement towards CPUC goals is greater than 100%, 9% if the goal achievement is between 85 and 100% and 0% if the goal achievement is between 65 and 85%; if the achievement of goals is less than 65%, the utility pays a penalty. Net benefits are calculated as two-thirds of the TRC Net Benefit and one-third of the PAC Net Benefit. In January 2009, the CPUC instituted a rulemaking (09-01-019) to examine and reform the EE incentive mechanism. Examination and proposed reform of California's risk-reward incentive mechanism continues in the rulemaking 12-01-0005. Currently, no decision has been made as to whether incentive payments will be made related to 2010-2012 EE program activities.	Approved (2007)	R.06-04-010; R.09-01-019; R.12-01-005
Colorado	HB 07-1037 (C.R.S. §40-3.2-104) requires investor-owned electric utilities to achieve at least 5% percent reduction of retail energy sales and capacity savings by 2018, based on 2006 sales. The law further states that the Commission shall allow electric DSM investments an opportunity to be more profitable to the utility than any other utility investment that is not already subject to an incentive. The Commission approved the following incentive package to Public Service Colorado: ■ A "disincentive offset" of $5m/year (pre-tax) for each year approved DSM plan implemented to offset lost margins, if the Company meets or exceeds 100% of its savings goals. Public Service will receive a pre-tax offset of $3.2m for performance relative to its savings goals between 80% and 99%. ■ Performance incentives for surpassing "modest" goals; for each 5% increase of achieved savings above 80% of goal, the company can earn an additional 1% of net economic benefits, up to 15% at 150% goal attainment. ■ Incentives are allowed via annually trued up DSM Cost Adjustment and are capped at $30 million. The Colorado PUC is revisiting the goals and incentive mechanisms in Docket 13A-0686EG.	Approved (2007)	HB-07-1037; Decision C08-560, Dockets 07A-420E, 10A-554EG, and 13A-0686EG
Connecticut	The CT PUC requires annual hearings for utilities, where the past year's results for energy savings are reviewed and a performance incentive is determined, which ranges from 1% to 8% of program costs. The minimum threshold of 70% of goals earns the minimum (1%) incentive. Reaching 100% of goals earns 5%, and for reaching 130% of goals earns 8%.	Approved (first in 1988, mechanism changes over time)	Dockets 07-10-03; 08-10-03; 09-10-03

State	Performance Incentive Description	Status	Relevant Statute, Code or Order
District of Columbia	Section 202 of the DC Clean and Affordable Energy Acot of 2008 authorizes the District's Department of the Environment to award "performanced based" and "financial" incentives to the operator of DC's Sustainable Energy Utility, VEIC, for meeting or exceeding specific performance benchmarks established in its contract. The contract with the Department of the Environment also includes financial penalties should the utility fail to meet the performance benchmarks	Approved (2008)	Section 202 of the DC Clean and Affordable Energy Act of 2008
Georgia	Georgia Power will receive an additional sum of 10% of the NPV of the actual net benefits of gross kWh savings (as determined by the Program Administrator test) from certified DSM programs, if they achieve annual incremental kWh savings of more than 50% of projections. If programs achieve less than 50% of projected kWh savings, the additional sum is 0.5% of NPV of net benefits for demand response measures and 3% of NPV of net benefits for energy efficiency measures. There is no cap to the incentive payments, however, if the incentive sum exceeds program costs, the portion of the total that exceeds the program cost is 5% of NPV of actual net benefits of gross kWh savings from the certified DSM programs (as detemined by the Program Administrator test).	Approved (2010)	Order Docket 31082
Hawaii	As part of the state's transition plan to establish a third-party administrator for efficiency programs, the HECO companies are responsible for administering their own DSM programs until the transition date. HECO may earn a shared percentage of savings of 1%-5% with an incentive cap of $2M.	Approved (2008)	Docket & Order 23258, Docket 2007-0323
Indiana	The state statute allows for either shared savings or adjusted/bonus ROE mechanisms as DSM incentives. To meet mandatory energy efficiency goals, Indiana utilities have developed "Core Plus" DSM programs. Duke Energy, Indianapolis Power & Light and Southern Indiana Gas & Electric Company received approval for a tiered structure shareholder performance incentives, and Indiana Michigan Power Company received approval for a shared benefits approach. Other cases currently pending before the Commission related to energy efficiency programs and performance incentives include No. 43938 (Vectren Energy Indiana), No. 43912 (Northern Indiana Public Service Company), and No. 43960 (Indianapolis Power and Light).	Approved (2010)	Administrative Code, Title 170, Art. 4; Cause No. 43374; Cause No. 43427; Cause No. 43618; Cause 43623; Cause No.43827; Cause No. 43938; Cause No. 43912; Cause No. 43960; Cause No. 43955
Kentucky	Performance incentives can be collected for three types of energy efficiency programs: programs for those who have difficulty participating in energy efficiency due to financial circumstances, programs aimed at residential housing, programs with long-run potential reduction in energy use."	Approved (2007)	Rev. Stat. 278.285(1) (c); Docket 2008-00473; 2007-00477

State	Performance Incentive Description	Status	Relevant Statute, Code or Order
Louisiana	In December 2012, the Louisiana Public Service Commission (PSC) approved a plan to give utilities a year to develop energy efficiency programs for their ratepayers. The Commission reversed its decision in February 2013, but again agreed to revisit the initiative in May 2013 after several consumer and environmental groups filed suit. In June 2013, the PSC voted to reinstate the initiative. The type of performance incentive mechanism has yet to be determined.	Approved (2013)	Docket R-31106
Massachusetts	The incentive allows utilities to earn about 5% of program costs for energy efficiency programs that meet established program goals. The incentive structure is determined on a program-by-program basis but generally utilizes a three-tiered structure. The first "design performance" level is defined as performance that a Program Administrator expects to achieve in implementing its energy efficiency programs. The second "threshold performance" level is 75% of the design level. The third "exemplary performance" level is 125% of the design level. Incentives are awarded only if a program achieves the threshold level or above.	Approved (2000)	Docket 04-11; Order 98-100
Michigan	The Commission approved DTE's energy optimization plan in 2009, which includes an incentive mechanism that allows the utility to earn up to 15% of program spending (a cap mandated by PA 295) if they reach 125% of their savings goals. An incentive payment is applied only if DTE exceeds its savings goal. PA 295 contains two provisions authorizing utilities to receive an economic incentive for energy efficiency programs. To be eligible, utilities must request that appropriate energy efficiency program costs be capitalized and earn a normal rate of return. Utilities can request a performance incentive mechanism to provide additional earnings to shareholders if they exceed the annual energy savings target. Incentives are capped at 15% of the total program cost.	Approved (2009)	PA 295 (2008); U-15806
Minnesota	The PUC revised the performance incentive originally approved in 1999. Under the new agreement, utilities retain a portion of net benefits based on the level of achievement, measured as a percent of retail sales. The award scale for this modified shared savings mechanism is calibrated to award $0.09/kWh at 1.5% of sales (e.g. if a utility achieves savings equal to 1.5% of sales, it will receive $0.09 for every kWh saved. The order was approved in January 2010.	Approved (1999); Revised mechanism (2010)	Docket CI-08-133, Statute 216B.241
Mississippi	In July 2013, the Mississippi Public Service Commission issued a final order in Docket No. 2010-AD-2, adding Rule 29, related to the Conservation and Energy Efficiency Programs. Section 106 in Rule 29 states that the utility may propose an approach to earn a return on energy efficiency investments through a shared savings or other performance based incentive mechanism to make these investments more like other investments on which utilities earn a return.	Pending	Docket No. 2010-AD-2

State	Performance Incentive Description	Status	Relevant Statute, Code or Order
Missouri	The Missouri PSC approved Ameren Missouri and KCP&L GMO's requests for performance incentives using a shared net benefits approach. The Ameren agreement allows $80 million in annual revenue requirement in Ameren Missouri's recent general rate case (Case No. ER-2012-0166) for recovery of demand-side programs' costs and recovery of fixed operating costs. The KCP&L GMO agreement allows $18 million in annual revenue requirement in GMO's recent general rate case (Case No. ER-2012-0175) for recovery of demand-side programs' costs and recovery of fixed operating costs (to overcome the through-put disincentive) and which will allow the Company to earn a future performance incentive award based on after-the-fact verified 3-year program energy savings and demand savings.	Approved (2012)	Case No. EO-2012-0166; Case No. ER-2012-0175
Montana	MT statute allows for the Public Service Commission to add 2% to the authorized rate of return for DSM investments. It has not yet been approved for a specific utility.	Pending. Passed into law, but not implemented by utility	Code 69-3-712
New Hampshire	The PUC is currently re-evaluating its performance incentive mechanism as it regards electric and natural gas savings and fuel-blind savings. There are two separate incentives in NH. The cost-effectiveness incentive is awarded for programs that achieve a cost effectiveness ratio of 1.0 or higher. The incentive is calculated as 4% of the planned EE budget times the ratio of actual to planned cost effectiveness. The energy savings incentive is awarded when actual lifetime kWh savings are greater than or equal to 65% of projected savings. The incentive is 4% of the planned EE budget times the ratio of actual to planned energy savings. Target incentive amounts are calculated separately for residential and commercial/industrial sectors and are capped at 12% of the planned sector budgets.	Approved (2000)	Docket DE 12-262; Order No. 25,462
New Mexico	In April 2010, the PSC approved a rule making that allows utilities to receive an incentive of between $.01 and $.005 per kWh saved and $10 per kW saved for EE. Utilities must file rate designs and ratemaking methods to remove regulatory disincentives to energy efficiency acquisition by July 2010. May 2011 stipulated agreement for El Paso Electric is pending before the Commission. Terms of the agreement include payment of $0.0045 per kWh saved and $20 per annual kW saved. Payments are calculated on a calendar year basis using projected savings for EPE's programs, subject to true up. Additionally, HB 305 was passed in 2008 which requires all utilities to "include all cost-effective energy efficiency and load management programs in the energy resource portfolios, and that regulatory disincentives to public utility development of cost-effective energy efficiency and load management be removed."	Approved (2010)	Case 08-00024-UT; Case 10-00266-UT; CASE 10-00280-UT; NM HB 305

State	Performance Incentive Description	Status	Relevant Statute, Code or Order
New York	The first phase of performance incentives were eligible to be collected for the 2011 year. The order caps the aggregate incentives at $40M per year statewide and target megawatt-hours will be set for each year at the time of review for the EE plans. Utilities could be rewarded or penalized for energy efficiency performance. As of June 2012, these incentives were being accounted for and will be paid out to the utilities upon completion. Phase 2 of the performance incentives will span 2012-2015. Incentives will total $36 million statewide over the three years - 2/3 of the amount can be earned by each utility independently, 1/3 of the amount will be distributed if the utilities reach a statewide goal. Utilities can only be positively rewarded in Phase 2. The proposal is still awaiting finalization.	Approved (2011)	Case 07-M-0548; Commission Opinion No. 89-29
North Carolina	North Carolina state law states that a utility may propose incentives for demand side management or energy efficiency programs to the Commission for consideration. The commission approved Progress Energy Carolina's incentive mechanism that allows for an incentive of 8% of NPV of benefits from DSM programs and 13% of NPV from EE programs. The Commission is considering an avoided cost recovery mechanism submitted by Duke Energy. The Commission issued a notice of decision approving Duke Energy Carolinas' Save-a-Watt program in December 2009 with a full decision to follow in January 2010. The program is similar to that in Ohio, where Duke will receive 50% of the net present value (NPV) of the avoided costs for conservation and 75% of the NPV for demand response.	Approved - Progress Energy Carolinas (2009), Duke Energy (2009)	Docket E-2, sub 931; Docket E-7, Sub 831
Ohio	Duke Energy received approval in December of 2008 for its proposed "Save-a-Watt" program, where the utility will receive 50% of the NPV of the avoided costs for energy conservation and 75% of the NPV of the avoided costs for demand response. Demand response programs are viewed by the parties as having a useful life of 1 year, while energy conservation programs have useful lives of up to 15 years. This mechanism was approved through December 31, 2011. Duke Energy Ohio has filed for a new recovery mechanism of Shared Savings. This is at a tiered level dependent upon impacts achieved. Duke Energy Ohio has also filed a decoupling mechanism to account for LR.	Approved (2008)	Docket 08-920-EL-SSO Docket11-4393-EL-RDR
Oklahoma	A shared savings program has been approved for Public Service Oklahoma (AEP) which allows for two different returns: an incentive of 25% of net savings for programs for which savings can be estimated and 15% of the costs for other programs (e.g. education and marketing programs). OG&E also has an incentive mechanism where they receive shared benefits for achieving savings goals, calculated on a measure-by-measure basis.	Approved - PSO (2008), OG&E (2009)	Cause No. PUD 200700449, Order 555302; Cause No. PUD 200800059, Order 556179

State	Performance Incentive Description	Status	Relevant Statute, Code or Order
Rhode Island	The shareholder incentive mechanism includes two components: performance-based metrics for specific program achievements, and kWh savings targets by sector. The program performance metrics are established for each individual program, such as achieving specific savings or a certain market share for the targeted energy-efficient technology. If Narragansett (d/b/a National Grid) achieves the savings goal, it receives 4.4% of the eligible budget. The threshold performance level is 60% of the savings goal. Once the threshold level has been reached, the utility has the ability to earn an additional incentive per kWh saved up to 125% of target savings. Incentive rates change by customer class.	Approved (2005)	Docket 3635, Order 18152
South Carolina	South Carolina law stipulates that the PSC "may adopt procedures that encourage electrical utilities [...] to invest in cost-effective energy efficient technologies and energy conservation programs." The Commission approved Progress Energy Carolina's incentive mechanism that allows for an incentive of 8% of NPV of benefits from DSM programs and 13% of NPV from EE programs. The Commission issued a notice of decision approving Duke Energy Carolina's Save-A-Watt program in December 2009 with full decision to follow in January 2010. The program calls for Duke to receive 55% of the net present value (NPV) of the avoided costs for conservation and 75% of the NPV for demand response.	Approved for Progress Energy Carolinas (2009); Approved for Duke Energy (2010)	Title 58. Public Utilities, Services And Carriers, Chapter 37. Energy Supply And Efficiency; Dockets 2008-251-E (Progress Energy), 2007-358-E, & 2008-251-E (Duke Energy)
South Dakota	The South Dakota Commission approved performance incentives for OtterTail in 2008, and MidAmerican in 2010. OtterTail has a flat-rate bonus incentive, while MidAmerican has a straight return on the program's budget. Montana-Dakota Utilities and Northwestern Energy also have performance incentives.	Approved (2008)	Docket Nos. EL-07-015, GE10-001, NG09-001, and GE09-001
Texas	Texas state code specifies that a utility may be awarded a performance bonus (a share of the net benefits) for exceeding established demand reduction goals that do not exceed specified cost limits. Net benefits are the total avoided cost of the eligible programs administered by the utility minus program costs. The performance bonus is based on the utility's energy efficiency achievements for the previous calendar year. If a utility exceeds 100% of its demand reduction goal, the bonus is equal to 1% of the net benefits for every 2% that the demand reduction goal has been exceeded, up to a maximum of 20% of the utility's program costs. A utility that meets at least 120% of its demand reduction goal with at least 10% of its savings achieved through Hard-to-Reach programs receives an additional bonus of 10% of the bonus calculated.	Approved (2008)	PUC of Texas Substantial Rule §25.181(h); CenterPoint Energy Houston Electric 2008 Energy Plan & Report, Project No. 35440

State	Performance Incentive Description	Status	Relevant Statute, Code or Order
Vermont	The operator of Efficiency Vermont, VEIC, is eligible to receive a performance incentive for meeting or exceeding specific goals established in its contracts. There is also a holdback in the compensation received by VEIC, pending confirmation that contractual goals for savings and other performance indicators have been achieved. The initial contract (2000-2002) allowed incentives of up to 2% of the overall energy efficiency budget over the three-year contract period. Incentives increased to 3.5% of the EE budget for the 2006-2008 period.	Approved (2000)	Contract 0337956, Attachment C
West Virginia	On April 1, 2013, AEP filed a proposal to the Public Service Commission seeking performance incentives for its energy efficiency programs. AEP's proposal includes an incentive of 5% of the pre-tax net benefits of their programs, up to 12% of overall program costs. The PSC is still reviewing AEP's case (13-0462).	Pending	Case No. 13-0462
Wisconsin	As of 2008, Wisconsin Power & Light (Alliant Energy) may earn the same rate-of-return on its investments in energy efficiency made through its "shared savings" program for commercial and industrial customers as it earns on other capital investments. Utilities may propose incentives as part of their rate cases, but there have been no proposals from other utilities under the most recent version of performance incentives. [Note: Wisconsin dropped performance incentives in the 1990s.]	Approved (2008)	Docket 6680-UR-114

Summary of Incentive Mechanisms

Approach	State
Earn a percentage of program costs for achieving savings target	AL, CT, MA, MI, NH, RI, SD, VT
Earn a share of achieved savings	AZ, AR, CA, CO, GA, HI, IN, KY, MN, MO, OK, NM, NY
Earn a percentage of the NPV of avoided costs	NC, OH, SC, TX
Altered rate of return for achieving savings targets	WI

Note: Information on lost revenue recovery mechanisms and electric efficiency performance incentives for electric utilities was compiled using the latest public data available as of July 2013. Readers are encouraged to verify the most recent developments by contacting the appropriate commission or regulatory agency. Other resources used in the preparation of this report were ACEEE's State Energy Efficiency Program Database, documents from EPA's National Action Plan on Energy Efficiency, and resources from the Regulatory Assistance Project.

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