Updated Draft Model Grid Utilization Legislation

Note on intended usage of this document: This is model legislation for states and designed for investor-owned utilities. The document is meant to be a starting point for designing utilization legislation that meets the needs of a particular jurisdiction. Sections in bold are intended to be modified to align with state-specific timelines and regulatory processes. In designing utilization programs, states should consider modifying this language to account for the characteristics of their jurisdictions (vertically integrated, restructured, RTO/ISO participation) and utilities (municipal utilities, electric cooperatives, etc.).

Definitions:

1. Utilization: The extent to which electric grid assets are used to meet customer needs during all hours of the year.
2. Metrics: Measurements used to assess the efficiency and performance of electricity grid infrastructure.
3. Peak load periods: State-specific threshold designed to target reporting to specific periods of grid stress
4. Minimal load periods: State-specific threshold designed to target reporting to specific periods of grid underutilization

Metrics:

1. No later than **PASSAGE + 6 months**, by order or regulation, the Commission shall establish grid utilization metrics that provide detailed and transparent information sufficient to allow the Commission to assess the efficiency, performance, and rate impacts of each utility's electricity grid infrastructure on its distribution and transmission systems. The Commission shall determine how metrics are calculated and reported to ensure the security of the distribution and transmission systems, including through data aggregation and anonymization and the use of confidentiality designations.
2. Distribution system metrics shall include information necessary to assess:
    a. System delivery conditions throughout the year, including:
        i. Total MWh delivered in relation to total potential deliverable MWh;
        ii. Total MW delivered at periods of peak load in relation to potential deliverable MW, including duration of peak load periods; and
        iii. Total MWh delivered during periods of minimal load in relation to potential deliverable MW, including duration of minimal load periods.
    b. Asset risk information, including:
        i. System assets experiencing abnormal operating conditions by number of assets and experiences each year; and
        ii. Average duration of abnormal operating conditions per asset.
    c. System rate trends, including:

i. Changes in system costs per customer;
ii. Costs per MW of incremental capacity enabled in the prior year;
iii. Rate of change of MWh delivered in relation to total potential deliverable MWh over the prior three years;
iv. Rate of change of MW delivered at periods of peak load over the prior three years;
v. Rate of change of rate base over the prior three years; and
vi. Rate of change of operations and maintenance costs over the prior three years.

d. Any other information the Commission deems necessary to assess system performance and impacts of utilization-focused investments.

3. Distribution system metrics shall be calculated to account for known external influences and with sufficient temporal and locational detail to allow the Commission to assess grid utilization. The Commission shall design reporting procedures that include guidance related to:
    a. Peak load periods, minimum load periods, and seasonal periods;
    b. Feeder, substation, and system-wide detail; and
    c. Weather normalization.
4. Transmission system metrics shall include information necessary to assess:
    a. Average-to-peak load ratios;
    b. Transmission congestion frequency and magnitude;
    c. Curtailment of generation or load attributable to transmission constraints;
    d. Costs per MW of incremental capacity enabled in the prior year; and
    e. Any other information the Commission deems necessary to assess system performance and impacts of utilization-focused investments.

Program/Existing Processes:

1. On or before **PASSAGE + 12 months**, the Commission shall establish a Grid Utilization docket to review and assess each Utility's grid utilization performance and to establish grid utilization improvement targets to reduce per-kWh rates while considering reliability, load growth, and other state policy goals. The Commission shall review changes in grid utilization metrics and update improvement targets at least every three years.
2. On or before **PASSAGE + 18 months**, and every three years thereafter, each Utility shall file a Grid Utilization Improvement Plan in the Grid Utilization docket to achieve the Commission-established grid utilization improvement targets through targeted actions, programs, and investments. The Plan shall include:
    a. Commercially available technologies that address system needs, improve grid utilization, and reduce per-kWh rates. These technologies may be utility- or customer-owned and may include, but are not limited to, front-of-meter resources, behind-the-meter resources, and enabling technology investments.
    b. Detailed descriptions of how the Utility plans to incorporate grid utilization metrics and improvement targets into existing regulatory processes, including:
        i. **[existing planning and procurement processes];**

ii. Cost recovery mechanisms including prudency reviews, rate cases and **[any other existing cost-recovery processes]**; and
iii. The design and evaluation of existing utility programs that impact load, including energy efficiency, demand response, virtual power plant, transportation and building electrification, storage, and **[any other utility load-related programs]**.

3. Within 120 days of a Plan filing, the Commission shall approve, deny, or modify the Plan, in whole or in part, to ensure that the proposed actions, programs, and investments, together with the incorporation of grid utilization metrics and improvement targets into existing regulatory processes, are sufficient to reduce per-kWh rates while considering reliability, load growth, and other state policy goals.
4. The Commission shall establish a process to annually review the implementation of the Grid Utilization Improvement Plans, including:
    a. Progress towards the Commission-established grid utilization improvement targets; and
    b. Incorporation of grid utilization metrics and improvement targets into existing regulatory processes.

Cost Recovery Program/Shared Revenue:

1. The Commission shall allow the utility to recover the reasonable costs of an approved Grid Utilization Improvement Plan. Utilization Improvement Plan costs may include:
    a. Capital expenditures;
    b. Program and operating costs;
    c. Customer incentives; and
    d. Any other expenses the Commission deems appropriate.
2. The Commission may establish utility incentive mechanisms that appropriately value the cost-effective improvement of grid utilization metrics for both Plan costs and any non-Plan spending. The utility incentive mechanism shall:
    a. Ensure that the majority of utilization benefits are provided to ratepayers; and
    b. Ensure that utility incentives are at least equal to traditional cost-of-service **[or other state-specific]** utility incentives.
3. Where targeted utilization improvement actions, programs, investments, or non-program spending enable the integration of new, incremental load into the system at lower-than-embedded costs, the Commission may design a revenue-sharing mechanism to apportion the associated revenue between utility incentives and rate reductions.
    1. The mechanism shall assess the difference between baseline embedded costs to serve at current rates and the costs of utilization-improvement investments to determine a potential revenue-sharing pool.
    2. The revenue-sharing pool will be apportioned to provide:
        a. Incentives for utilization improvement investments that exceed utility returns within embedded costs to serve under current rates; and
        b. Meaningful rate reductions for customers.