

Approved: March 23, 2004

Date

Carl Dean Holmes

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Vice Chairman Carl Krehbiel at 9:06 a.m. February 24, 2004 in Room 231-N of the Capitol.

All members were present except: Representative Carl Holmes
Representative Roger Reitz
Representative Roger Toelkes

Committee staff present: Mary Galligan, Legislative Research
Dennis Hodgins, Legislative Research
Mary Torrence, Revisor of Statutes
Jo Cook, Administrative Assistant

Conferees appearing before the committee: Representative Tom Sloan
Donna Johnson, Pinnacle Technology
Don Low, Kansas Corporation Commission
Larry Holloway, Kansas Corporation Commission
Trudy Aron, American Institute of Architects Kansas
Bruce Graham, Kansas Electric Power Cooperatives

Others attending: See Attached List

HB 2515 - Generation from renewable resources; requirements for state agency use; rate of return on generation facilities

HB 2523 - Electric utilities; additional rate of return allowed as a renewable energy and transmission system upgrade incentive

Vice Chairman Krehbiel opened the informational hearings on **HB 2515** and **HB 2523**.

Representative Tom Sloan addressed the committee on **HB 2515** and **HB 2523** (Attachment 1). Representative Sloan shared his concern about the availability of renewable energy necessary to meet the federal requirements outlined in President Clinton's Executive Order. He also addressed his concern that federal facilities in Kansas were receiving their required electricity generated from renewable resources in Kansas, not other states. Representative Sloan responded to questions from the committee.

Donna Johnson, President of Pinnacle Technology, testified on **HB 2515** and **HB2523** (Attachment 2). Ms. Johnson told the committee that **HB 2515** takes positive steps in establishing demand for renewable energy generated electricity and by having the state take an active role, ensures utilities are ready for energy diversity. She also stated that **HB 2523** assists the utilities move into the renewable energy generation.

Mr. Don Low, Director of the Utilities Division of the Kansas Corporation Commission, provided comments on **HB 2515** (Attachment 3). Mr. Low stated that the bill appeared to promote electric renewable energy resources through two mechanisms; a mandate to state agencies for 2.5% of electrical consumption from renewable generation and an additional 1.5% rate of return on investments in purchased power agreements or generation facilities that supply renewable resource power. Mr. Low responded to questions from the committee.

Larry Holloway, Chief of Energy Operations for the Kansas Corporation Commission, spoke to the committee on **HB 2523** (Attachment 4). Mr. Holloway said that the bill proposed broadly based incentives for renewable generation and investment in electric transmission and that they believe there are less expensive ways to achieve the same objectives. Mr. Holloway also shared a comparison of costs if the provisions in the bill were adopted versus the use of a Renewable Portfolio Standard. He indicated that customers of Westar would be charged nearly \$460 million dollars under **HB 2523**. Mr. Holloway responded to questions from the committee.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 231-N Statehouse, at 9:06 a.m. on February 24, 2004.

Trudy Aron, Executive Director of the American Institute of Architects-Kansas, shared their support of **HB 2515** (Attachment 5). Ms. Aron stated that the use of clean, non-polluting, and sustainable sources of electricity is necessary to cut our increasing dependence on foreign and domestic fossil fuels.

Bruce Graham, appearing on behalf of Kansas Electric Power Cooperative, Sunflower Electric Power Corporation, Kansas Electric Cooperatives, and Westar Energy, presented comments on **HB2515** (Attachment 6). He stated that they supported the development of renewable generation but that the bill implements a market distorting renewable generation requirements and could be a violation of ratemaking principles prohibiting customer class subsidies. Mr. Graham responded to questions from the committee.

Vice Chairman Krehbiel closed the informational hearings on **HB 2515** and **HB 2523**.

Vice Chairman Krehbiel called the committee's attention to the minutes of the January 26, January 27, January 28, January 29, January 30, February 3, February 4, February 5, February 6, February 10, February 11, February 12, February 13, February 16, February 17, February 18, and February 19 meetings. Representative Long-Mast moved to approve the minutes of the aforementioned meetings. Representative Kuether seconded the motion. The motion carried.

The meeting adjourned at 9:58 a.m.

The next meeting will be Thursday, March 4, 2004.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 24, 2004

NAME	REPRESENTING
Bruce Graham	KEPCO
Joe Dick	KC BPU
Larry Holloway	KCC
Don Low	"
Susan Cunningham	"
Sandy Braden	GPE/KCPL
Mark Schreiber	Westar Energy
Donna Johnson	Pinnacle Technology
Susan Cunningham	
Trudy ARON	Am INST. of Architects
Charles Benjamin	Sierra Club
Kevin Parks	Sierra Club

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TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENT
 CHAIRMAN: HIGHER EDUCATION
 MEMBER: UTILITIES
 ENVIRONMENT
 GENERAL GOVERNMENT &
 HUMAN RESOURCES
 BUDGET

Testimony on HB2515 and HB 2523

Mr. Chairman, Members of the Committee: I appreciate the opportunity to discuss **HB 2515**. You have heard me speak about the economic development benefits that can accrue to property owners and communities with wind farm development. Current lease payments (nationally) average in the \$4,000 - \$5,000 per turbine per year range with escalation over time. Wind energy is also dispatchable in the one to six hour range with 24 hour forecasting almost to that point.

What you may not know is that President Clinton issued an Executive Order requiring federal installations **by the end of 2005** to adopt a two-phase strategy of increasing energy conservation and purchasing **2.5 percent** of their power needs from renewable generators. The renewable energy requirements increase to **5 percent** by 2010. The Bush administration not only left those requirements in place, but the Federal Energy Bill that passed the House of Representatives and is currently stalled in the Senate over the MBTE issue extended the renewable energy requirement to **7.5 percent** by 2015. Federal agencies in Kansas include Ft. Riley, Ft. Leavenworth, McConnell AF Base, Forbes Field, the U.S. Coast Guard pay center in Topeka, and post offices everywhere.

My concern is that the renewable energy necessary to meet those federal requirements will not be available in Kansas. With Kansas having some of the best wind generating potential in the country, it would be a sin for the energy to serve federal military and civilian facilities to be "wheeled" in from Oklahoma, Texas, and the Dakotas.

HB 2515 would impose a requirement that state agencies utilize 2.5 percent renewable energy by the end of 2005. The goal is to create a sufficiently large demand for renewable energy in this state, that rural Kansans and the SGF will reap significant benefits. The bill says nothing about where such generation should be located, but it does support the federal drive for this country to reduce its dependence on imported oil and natural gas. If Kansas' energy economy is to remain strong, we need to develop our renewable resources. HB 2515 supports the federal initiative started by President Clinton and continued by President Bush.

Testimony on HB 2523:

HB 2523 takes an alternative and complimentary approach to providing incentives for Kansas' utilities to generate energy from renewable resources to meet the federal requirements. It provides that for each percent of the utility's total generation that is

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generated from renewable resources, the utility shall earn an additional .5 percent rate of return on the utility's generation assets (pg. 1, lines 24-26). The total "extra" earnings are capped at 2.5 percent for the first five years of the generation's "life" and then decreased over the next four years to zero (pg. 1, lines 27-32). Other safeguards and limits are included in the bill to prevent consumers from bearing an unreasonable burden.

Again, my concern is that the federal facilities in Kansas receive their required electricity generated from renewable resources from Kansans, not from generators in other states. I want our citizens to receive the lease payments, jobs, in-lieu of tax payments, etc. - not persons and communities in Oklahoma, the Dakotas, and Texas.

I am providing legislators options about how we incentivize the generation of electricity from renewable resource. You may choose HB 2515, HB 2523, both, or an alternative that you determine best meets the needs of our state. What I ask is that you not let non-Kansas landowners and communities benefit from the plethora of federal installations that we have in our state.

I am not alone in trying to encourage the development of a state's renewable generation capabilities. For example, Colorado's House of Representatives recently passed their Speaker's bill to require their investor-owned utilities to obtain 15 percent of their power from renewable resources by 2020. The Energy Foundation funded a study to determine the cost of new power generated in Colorado from traditional fossil fuel sources and wind power. The results of the study, (www.rbinz.com/new.htm), provides that consumer bills should be minimally impacted. The range of scenarios include: 20 cents per month lower electric bills over 20 years (\$218 million savings for Xcel Energy customers); with worst case assumptions showing an increase of 8 cents per month over the 20-year period. Renewable energy sources can save consumers additional money by acting as a hedge against spikes in natural gas prices (e.g., 52 cents to 75 cents per month in years when natural gas prices spike as they did in 2000 and 2003).

Renewable energy will never replace fossil fuel plants, but it can have a significant role. We (you, our colleagues, and I) are determining whether our rural communities will have the opportunity to benefit from federal renewable energy policies. This is not an insignificant or easily dismissed responsibility. Other people promote renewable energy's significant environmental benefits, but my focus has been on the economic benefit to our rural landowners and communities. If we do not want a Buffalo Commons, if we do not want people in other states benefiting at our expense, we must assist Kansans and Kansas' utilities to develop wind generation.

There are places that should not have turbines or bio-mass generation units, ethanol plants, or hydrogen and methane wells. There also are areas that should not have oil and natural gas production, residential development, and other features of modern society. Traditionally Kansans have determined that land use issues are best decided by local governments. I ask you not to destroy a time-sensitive opportunity for rural economic development. Let the locally elected officials determine where it is, and is not, appropriate to locate wind turbines.

**Utilities Committee
Kansas House of Representatives
Testimony on HB 2515 and 2523**

By
Donna Johnson, President
Pinnacle Technology Inc.
619 East 8th Street, Suite D
Lawrence KS 66044

Thank you Mr. Chairman and members of the committee for the opportunity to speak in support of HB 2515 and 2523.

HB 2515 takes positive steps to help establish demand for electricity from renewable energy in the State of Kansas. Having our state agencies take the lead in this area is a positive signal that the state wants to move towards an energy policy focused on the long term. Several states have already implemented such plans including Illinois, Maryland, New Jersey, New York and Pennsylvania. Recently the Governor of Tennessee called for similar action in Nashville, the state capitol. These states have said that they will be leaders in renewable energy. In addition, federal agencies, cities, religious organizations, businesses and universities are all making commitments to renewable energy.

By having the state take such an active role, it will ensure that our utilities are ready for the energy diversity of tomorrow. They will bring small amounts of renewable energy into their mix, learn to handle the technical issues that each energy source brings with it and help forge a better environment for the future.

HB 2523 assists the utilities to move into renewable energy generation. It also focuses the excess funds into increasing transmission capacity in the state. This has the potential to help expand distributed generation system expansion and increase the opportunities for wind and other renewables.

I am not a rate base expert and cannot comment on the specifics of the bill. I leave that for those more knowledgeable. But I firmly believe that Kansas' long term energy future needs to be a mix of all fuel types ranging from wind and solar to coal and nuclear. The more diversified we become, the more stable we are. This can be seen in the state's diversified economy. We do not fail when one sector has several bad years because our economy is based on oil, gas, agriculture, aviation, plastics, telecommunications, etc. It is unlikely when one has a "bad year" that they are all depressed. The same can be said for energy. Today, natural gas is very expensive; oil is always volatile. Coal appears to be inexpensive in the long term, but not if a carbon tax is imposed. Nuclear is an excellent source of energy but to date there is no solution to disposal of the spent fuel rods. Renewables have a role to play but it takes leadership and commitment to bring them into the mix.

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BEFORE THE HOUSE UTILITIES COMMITTEE
PRESENTATION OF THE KANSAS CORPORATION COMMISSION ON
HB 2515

Don Low, Director of the Utilities Division
February 24, 2004

Mr. Chairman and Members of the Committee, thank you for the opportunity to provide a few comments on HB 2515.

This bill appears to promote electric renewable energy resources through two mechanisms: 1.) A mandate to state agencies to ensure that at least 2.5% of electricity consumed be from renewable generation by January 1, 2006, and 2.) A 1.5% additional rate of return on investments in purchased power agreements or generation facilities that supply renewable resource power.

First, with regard to promotion of renewable energy generally, I would note that K.S.A. 66-117(e) already provides some incentives for electric utilities to invest in renewable energy resources by allowing an additional rate of return of ½ to 2%.

“(e) Upon a showing by a public utility before the state corporation commission at a public hearing and a finding by the commission that such utility has invested in projects or systems that can be reasonably expected (1) to produce energy from a renewable resource other than nuclear for the use of its customers, (2) to cause the conservation of energy used by its customers, or (3) to bring about the more efficient use of energy by its customers, the commission may allow a return on such investment equal to an increment of from 1/2% to 2% plus an amount equal to the rate of return fixed for the utility's other investment in property found by the commission to be used or required to be used in its services to the public. The commission may also allow such higher rate of return on investments by a public utility in experimental projects, such as load management devices, which it determines after public hearing to be reasonably designed to cause more efficient utilization of energy and in energy conservation programs or measures which it determines after public hearing provides a reduction in energy usage by its customers in a cost-effective manner.”

To my knowledge, no company has requested that additional return. If the Legislature believes that renewable energy is desirable, the simplest way to increase

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renewable generation in Kansas would be a legislative mandate that a certain percentage of electricity provided by the companies be from renewable resources. This type of requirement is commonly referred to as a "Renewable Portfolio Standard" and has been adopted by other states.

As far as the specific mechanisms in this bill, the first one would appear to be of limited effectiveness in promoting renewable energy. It would seem that to meet the 2.5% mandate, the electric suppliers for state agencies would have to determine their loads for state agencies and produce 2.5% of that load from renewable resources. Thus, if state agencies in total represent 1% of a company's load, just .00025% of its total load would need to be supplied from renewable resources.

I would also note that the enforcement provisions of this mechanism are problematic. Subsection 1(c) would subject non-complying state agencies and providers to liability for fines to be assessed by the Commission. The Commission's authority to fine state agencies is questionable since K.S.A. 66-138 and -177 only allow for penalties to be assessed on utilities or common carriers.

With regard to the second mechanism, there would appear to be only two major differences from the existing incentives in K.S.A. 66-117(e). First, this bill would fix the additional rate of return at 1.5% rather than providing a range of .5 to 2%. Second, the incremental return would apply to "investment" in purchased power agreements in addition to actual generation facilities. Under rate of return regulation, the return is applied to capital costs in net rate base - the original cost of facilities minus accumulated depreciation. Since purchased power agreements are not currently capitalized and depreciated, and not given a rate of return, it is unclear how the "additional" rate of return would be applied to them. Consequently, it is not evident how this mechanism creates additional incentive for renewable energy.

Thank you for the opportunity to comment on this bill. I will be glad to answer any questions.

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**BEFORE THE HOUSE UTILITIES COMMITTEE
PRESENTATION OF THE
KANSAS CORPORATION COMMISSION
February 24, 2004
HB 2523**

Thank you, Chairman and members of the Committee. I am Larry Holloway, Chief of Energy Operations for the Kansas Corporation Commission. I appreciate the opportunity to be here today to testify for the Commission on HB 2523.

This bill proposes broadly based incentives for renewable generation and investment in electric transmission. While we recognize the need for policymakers to consider whether to promote renewable generation and additional investment in electric transmission, we oppose the provisions of this bill. We believe that there are far less expensive ways to achieve the same objectives promoted by this legislation. Furthermore, we are concerned that this bill could affect the KCC's ability to protect electric ratepayers, and encourage utilities to make imprudent investments and engage in risky financial practices.

Section 3 (b) of this bill requires the Commission to allow any electric public utility to receive "a higher rate of return on generation assets of any electric public utility which generates electricity from renewable resources and technologies, ..." This section goes on to state that the return shall be allowed on "the utility's generation assets" at a rate of an additional ½ % for every 1% of the utility's total generation that is "generated from renewable resources and technologies". This amount of increased return is decreased on an annual basis and disappears entirely after 9 years. The utility is required to invest "at least 40% of the increased rate of return" in "electric transmission capacity for economic development and transmission system reliability and security."

While the wording of the bill is unclear, it appears that a utility would receive additional return on all of the utility's generation assets, including existing conventional generation plants, based upon generating a small percentage from renewable generatio

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The KCC would be required to allow this return on generation assets and would not be able to consider any factor except whether or not the utility met the requirements. It is important to note that the KCC already has the ability to allow a utility an increased return on its investment in renewable generation and technology under K.S.A. 66-117(e):

“(e) Upon a showing by a public utility before the state corporation commission at a public hearing and a finding by the commission that such utility has invested in projects or systems that can be reasonably expected (1) to produce energy from a renewable resource other than nuclear for the use of its customers, (2) to cause the conservation of energy used by its customers, or (3) to bring about the more efficient use of energy by its customers, the commission may allow a return on such investment equal to an increment of from 1/2% to 2% plus an amount equal to the rate of return fixed for the utility's other investment in property found by the commission to be used or required to be used in its services to the public. The commission may also allow such higher rate of return on investments by a public utility in experimental projects, such as load management devices, which it determines after public hearing to be reasonably designed to cause more efficient utilization of energy and in energy conservation programs or measures which it determines after public hearing provides a reduction in energy usage by its customers in a cost-effective manner.”

The language in this bill differs from the existing statute in several significant ways:

- HB 2523 does not allow the Commission any discretion, the increased return is mandatory;
- HB 2523 directs the utility to make certain investments in transmission;
- HB 2523 allows this increased return on ALL of the utility's existing generation assets – not just the renewable portion; and
 - This could be a very large amount and would require the Commission to dramatically increase electric bills without considering whether or not the result was just and reasonable

If the Legislature desires to increase the amount of renewable generation capacity in Kansas, or to increase investment in electric transmission, there are much less expensive ways to achieve the same result. Furthermore this legislation would encourage electric utilities to build renewable generation themselves, even if it were less expensive to procure renewable energy from independent developers. Finally, the provisions of this bill restrict the KCC's ability to protect ratepayers.

There are much more cost effective ways to increase renewable generation and transmission capacity in Kansas. As an example, suppose that the incentives under this bill are compared to the Legislature adopting a requirement for each utility to generate

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5% of its electricity from renewable resources. This type of requirement is often referred to as a "Renewable Portfolio Standard" or RPS and many states have adopted some type of RPS. Attached is a calculation done assuming that Westar (both KGE and KPL) build enough wind generation to achieve 5% of their generation from wind generation under the incentives of this bill. As shown, the legislature could adopt a 5% RPS and require Westar to invest over \$180,000,000 in transmission and achieve the same results as the incentives envisioned by this bill. **The KCC estimates that over 9 years Westar ratepayers would be charged about \$460 million dollars more, under the provisions of this bill, than they would if the legislature merely adopted a 5% RPS and required the same transmission investment.**

Furthermore, unlike most renewable portfolio standards, this legislation does not appear to have a limit on how many times the process for receiving this incentive could be repeated. The utility could simply add another 5% renewable energy at the end of nine years and repeat the cycle, the incentives and the costs to ratepayers. In the example given, this could cost Westar's ratepayers close to an additional **one half billion dollars** every nine years.

While we do not take a position today on the advisability of an RPS, or any other renewable energy subsidy, we do recognize that the Legislature may wish to take action to promote renewable energy. We recognize that an RPS is a subsidy that would require extensive investment in renewable resources in the state, and would likely raise electric rates for all Kansans. Nonetheless it is far cheaper than the incentives envisioned under this bill. If the Legislature desires to adopt a subsidy for renewable energy, we believe the RPS is a far better alternative.

We are also concerned that this bill appears to promote utility construction and ownership of renewable generation. Given the guaranteed increased return on renewable investment, most utilities would elect to construct the generation themselves and add it to

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their ratebase. This creates a disadvantage for many renewable energy developers that may be able to construct and operate renewable generation more economically than utilities that have no experience with the technologies. This disadvantage could be translated into higher costs for ratepayers.

Suppose, for example, that the utility invests in renewable generation for a far greater cost than is necessary. While the KCC might disallow some of that investment in ratebase, because the utility acted imprudently and spent more money than it should have, the bill would still allow the utility to receive an increased rate of return on its existing generation and on the allowed portion of the new investment. Overall, the utility would still receive a significant incentive. Conversely, under other initiatives, such as an RPS, the KCC would review and approve the utility's investment to make sure that the utility did a reasonable and prudent job in meeting the renewable portfolio standards, and that ratepayers were not excessively charged. Additionally, the current incentives already provided in K.S.A. 66-117(e) would allow the KCC much greater discretion in allowing a reasonable incentive on the renewable investment itself.

In conclusion, the KCC believes there are far more economical ways to encourage utility investment in renewable resources and transmission investment, than the provisions envisioned by this bill. Furthermore, the KCC is concerned that this bill would not only affect its ability to protect electric ratepayers, but would encourage utilities to make imprudent expenditures in renewable generation.

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Comparison of Costs to Westar Ratepayers of HB 2523 and a Renewable Portfolio Standard with Required Transmission Investment

Total Ratebase Added Under Incentive

	Generation Plant in Ratebase (From KCC Dkt. 01-WSRE-436-RTS Balance to be recovered from Depreciation, unadjusted for ADIT, misc)	Amount of Electricity Generated From 2002 annual report, page 401a, in MegaWatt hours (MWH)
Westar - KPL	\$698,314,660	15,342,107
Westar - KG&E	\$1,231,775,419	13,037,704
Westar Total Current Generation	\$1,930,090,079	28,379,811
5% Wind Generation	\$694,222,383	
Westar Ratebase with 5% Wind	\$2,624,312,462	

Wind Capacity Calculation

	Capacity Required in MW	Cost to Install Wind Generation (Assuming \$1500 per KW)
Amount of Wind Generation Capacity Needed for each 1% of Total Generation (35% capacity factor)	92.56	\$138,844,477
5 percent Maximum Wind Generation	462.81	\$694,222,383

Year	Increased Return	Increased Return on Ratebase	Investment in Transmission
1	2.5%	\$65,607,812	\$26,243,124.62
2	2.5%	\$65,607,812	\$26,243,124.62
3	2.5%	\$65,607,812	\$26,243,124.62
4	2.5%	\$65,607,812	\$26,243,124.62
5	2.5%	\$65,607,812	\$26,243,124.62
6	2.0%	\$52,486,249	\$20,994,499.69
7	1.5%	\$39,364,687	\$15,745,874.77
8	1.0%	\$26,243,125	\$10,497,249.85
9	0.5%	\$13,121,562	\$5,248,624.92
			\$183,701,872.31

Total Additional Cost to Westar Ratepayers **\$459,254,681**

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February 24, 2004



TO: Representative Holmes and Members of House
Utilities Committee

FROM: Trudy Aron, Executive Director

RE: **SUPPORT FOR HB 2515**

President
Rich Bartholomew, AIA
Overland Park
President Elect
Mark Franzen, AIA
Overland Park
Secretary
Jan Burgess, AIA
Wichita
Treasurer
Michael Seiwert, AIA
Wichita

Directors
Tracy Anderson, AIA
Manhattan
Richard Blackburn, AIA
Topeka
Joy Coleman, AIA
Lawrence
Douglas R. Cook, AIA
Olathe
Timothy J. Dudte, AIA
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Robert D. Fincham, AIA
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John Gaunt, FAIA
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Jane Huesemann, AIA
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J. Jones, Associate AIA
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Michael G. Mayo, AIA
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Rick McCafferty
Wichita
Tom Milavec, AIAS
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Courtney Miller, AIAS
Lawrence
Bobbi Pearson, Assoc, AIA
Emporia
C. Stan Peterson, AIA
Topeka
Jennifer Rygg, Assoc, AIA
Wichita
Jason Van Hecke, AIA
Wichita
Kyle Wedel, AIAS
Manhattan

Good morning, Representative Holmes and members of the Committee. I am Trudy Aron, executive director, of the American Institute of Architects in Kansas (AIA Kansas.) We appreciate the opportunity to discuss our support of HB 2515.

AIA Kansas is a statewide association of architects and intern architects. Most of our 700 members work in over 100 private practice architectural firms designing a variety of project types for both public and private clients including justice facilities, schools, hospitals and other health facilities, industrial buildings, offices, recreational facilities, housing, and much more. The rest of our members work in industry, government and education where many manage the facilities of their employers and hire private practice firms to design new buildings and to renovate or remodel existing buildings.

We support HB 2515 and believe that the State of Kansas should be a leading proponent of requiring the use of renewable energy sources. Furthermore, we hope the state will increase the requirements from the bill's very meager requirements as soon as it is realistic to do so.

The use of clean, non-polluting, and sustainable source of electricity is necessary to cut our increasing dependence on foreign and domestic fossil fuels.

AIA Kansas urges you to support the requirements in HB 2515 and to support alternative and renewable energy sources that makes so much sense to us. Thank you.

Executive Director
Trudy Aron, Hon. AIA, CAE
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ATTACHMENT 5

*Informational Hearing on HB 2515
Testimony before House Utilities Committee - February 24, 2004*

Presented by Bruce Graham, KEPCo, on behalf of:
Kansas Electric Power Cooperative, Inc. (KEPCo)
Sunflower Electric Power Corporation
Kansas Electric Cooperatives
Westar Energy

Thank you for the opportunity to present some comments regarding HB 2515. We support the development of renewable generation but this bill implements a market distorting renewable generating requirement and could be a violation of ratemaking principles which prohibit customer class subsidies.

- This concept along with any form of Renewable Portfolio Standard (RPS) would create an artificial market for renewable generation and could slow efforts to reduce the cost of what is still a more expensive and less reliable generation source.
- Recognizing that renewable costs will be higher, the bill prohibits the utility from passing along the actual cost of that generation to the state agency. Therefore, other customers would be forced to pay higher rates in order to subsidize this mandate.
- The administrative burden on state agencies and the utilities to implement this provision would also be substantial. As written, each agency could aggregate the demand of facilities under its control when calculating the renewable requirements. However, it is also possible to purchase the 2.5 percent renewable obligation for individual facilities. Therefore, a rural electric cooperative could conceivably be required to provide renewable generation equal to 2.5 percent of the load for three bathrooms at a Wildlife and Parks Department campground.
- There are no contractual terms stated. As a result, the utilities that initially build the renewable supply necessary to serve the state's demand will be at risk in the future if technologies improve and the renewable generation becomes less expensive.
- The RPS concept will receive further review in the coming year. According to the annual report of the Kansas Energy Council, the group intends to debate the mandate idea. While HB 2515 implements a limited standard, we are concerned with establishment of any such requirement that runs counter to regulatory principles which strive to assure quality customer service at the lowest possible cost.

(see other side)

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Section 2 of the bill is a concept already in Kansas law and we believe the new language is unnecessary. The current statute follows:

Chapter 66.--PUBLIC UTILITIES
Article 1.--POWERS OF STATE CORPORATION COMMISSION

66-117. Change of rates or schedules; procedure; effective date; higher rates of return in certain cases; hearing; property tax surcharge authorized.

(e) Upon a showing by a public utility before the state corporation commission at a public hearing and a finding by the commission that such utility has invested in projects or systems that can be reasonably expected (1) to produce energy from a renewable resource other than nuclear for the use of its customers, (2) to cause the conservation of energy used by its customers, or (3) to bring about the more efficient use of energy by its customers, the commission may allow a return on such investment equal to an increment of from 1/2% to 2% plus an amount equal to the rate of return fixed for the utility's other investment in property found by the commission to be used or required to be used in its services to the public. The commission may also allow such higher rate of return on investments by a public utility in experimental projects, such as load management devices, which it determines after public hearing to be reasonably designed to cause more efficient utilization of energy and in energy conservation programs or measures which it determines after public hearing provides a reduction in energy usage by its customers in a cost-effective manner.

Thank you for the opportunity to present our comments and concerns regarding HB 2515.

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