Approved: April 29, 2005 Carl Dean Holmes
Date

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:11 a.m. on February 9, 2005 in Room 231-N of the Capitol.

All members were present except: Representative Annie Kuether - Excused
Representative Judy Showalter - Excused

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, Lawrence, KS
Bill Griffith, Sierra Club, Leavenworth, KS
Bruce Snead, Kansas Energy Council, Manhattan, KS
Bruce Graham, Kansas Electric Power Cooperatives, Topeka, KS
Lois Liechti, KCPL, Kansas City, MO
David Spring, Citizens' Utility Ratepayer Board, Topeka, KS
Larry Holloway, Kansas Corporation Commission, Topeka, KS
Mike Klein, Salvation Army, Kansas City, MO
Candace Shively, KS Dept of Social & Rehabilitation Services, Topeka, KS
Dave Wilson, AARP, Topeka, KS
Glenda Cantrell, Kansas Gas Service, Topeka, KS

Others attending: See Attached List

HB 2048 -Generation from renewable resources; requirements for state agency use
HB 2084 -Energy efficiency and conservation programs for certain residential utility customers
HB 2240 -Electric and natural gas public utilities; energy conservation programs

Chairman Holmes opened the joint hearing on **HB 2048**, **HB 2084,** and **HB 2240**.

Representative Tom Sloan testified in support of **HB 2048** (Attachment 1) and **HB 2084** (Attachment 2). Representative Sloan told the committee that **HB 2048** requires that most state agencies obtain a percentage of their electrical usage from renewable energy resources. He stated that **HB 2084** attempts to merge two concepts - that of energy efficiency conservation and helping consumers reduce their energy bills.

Bill Griffith, Chairman of the Kansas Chapter of the Sierra Club, appeared before the committee in support of **HB 2048** (Attachment 3) and **HB 2240** (Attachment 4). Mr. Griffith stated that **HB 2048** would show a commitment from the state to encourage renewable energy development. He told the committee that **HB2240** is a model piece of legislation that will jumpstart energy efficiency and conservation programs for public utility customers in Kansas.

Bruce Snead, Kansas Energy Council - Energy Efficiency representative, appeared in support of **HB 2240** (Attachment 5). Mr. Snead explained that this bill was needed because there is demonstrated potential to delay or avoid adding costly generation, to stabilize total utility bills, to reduce demand for natural gas, to reduce pollution, and to enhance economic development.

Written testimony in support of **HB 2048** was submitted by Trudy Aron, AIA Kansas (Attachment 6).

Bruce Graham, appearing on behalf of the Kansas Electric Power Cooperative, Inc,; Sunflower Electric Power Corporation, Kansas Electric Cooperatives, Inc., Midwest Energy, and Westar Energy, presented testimony in opposition to **HB 2048**, **HB 2084**, and **HB 2240** (Attachment 7). Mr. Graham stated that **HB 2048** would create a Renewable Portfolio Standard for state agencies that would be subsidized at the expense of Kansas ratepayers. He told the committee that **HB 2084** that the energy conservation programs addressed in the bill were already permitted under current Kansas law. In regards to **HB 2240**, Mr. Graham stated the bill would require additional investment by Kansas utilities in energy conservation programs that would be borne by the ratepayers.

Lois Liechti, Manager of regulatory Affairs for Kansas City Power & Light Company, testified as an opponent to **HB 2048**, **HB 2084**, and **HB 2240** (Attachment 8). Ms. Liechti told the committee that **HB 2048** was intended to further the development of renewable generation resources by mandating state agencies to use a specific percentage of their electric energy requirements with renewable resources. She told the committee that they oppose **HB 2084** because they believe current law provides the Corporation Commission authority to allow utilities recovery of energy efficiency and conservation programs. Ms. Liechti stated that they supported the concept in **HB 2240**, however, they had many reservations as to the details in the bill.

David Springe, Consumer Counsel for the Citizens' utility Ratepayer Board (CURB), offered testimony in opposition to **HB 2048**, **HB 2084**, and **HB 2240** (Attachment 9). Mr. Springe stated that CURB did not support the mandate set forth in **HB 2048** that required utilities to provide a set level of energy from renewable resources. He told the committee that **HB 2084** requires a utility to develop a policy for identifying high risk customers and that policy must be approved by the Corporation Commission, while appearing to take away the protections provided under the cold weather rule. Mr. Springe explained that the opposition to **HB 2240** was because of the estimated spending levels required by the bill that could amount to $30 to $50 million annually on utility customers.

Larry Holloway, Chief of Energy Operations for the Kansas Corporation Commission, testified in opposition to **HB 2084** and as a neutral conferee on **HB 2240** (Attachment 10). Mr. Holloway stated that the legislation offered in **HB 2084** would not allow the Commission to review, investigate, or decide if the utilities' distribution network for pre-paid cards was adequate or available to customers placed on the program. Addressing **HB 2240**, Mr. Holloway said the Commission recognizes that this legislation provides adequate authority for the Commission to assure such programs are done in a cost effective and responsible manner.

Michael Klein, Divisional Government Relations Director for The Salvation Army, appeared in opposition to **HB 2084** (Attachment 11). Mr. Klein expressed concerns about the portion of the bill dealing with allowing utilities to develop programs for customers identified as high risk in requiring prepayment for utility bills.

Candace Shivley, Deputy Secretary for the Kansas Department of Social and rehabilitation Services, provided testimony in opposition to **HB 2084** (Attachment 12). Ms. Shivley stated they were concerned with the provisions in the bill that would remove the protection of the Cold Weather Rule for consumers who participate in a prepaid energy card program. This would limit the amount of service provided based on a pre-payment.

David Wilson, Executive Council Member for AARP Kansas, testified in opposition to **HB 2084** (Attachment 13). Mr. Wilson shared concerns about the lack of guidance as to what constituted total cost as outlined in the bill. He felt that such wide freedom of interpretation does not appear to be prudent public policy.

Glenda Cantrell, Customer Service Manager for Kansas Gas Service, addressed the committee in opposition to **HB 2240** (Attachment 14). Ms. Cantrell outlined the company's concerns about the proposed legislation. She stated that it would appear to require utilities to target conservation improvements in areas of the state that use propane and fuel oil, which are not major energy sources in the state.

Written testimony in opposition to **HB 2048** (Attachment 15) was submitted by Richard Nelson, Kansas Energy Council, Manhattan, KS.

The conferees responded to questions from the committee.

Chairman Holmes closed the hearing on **HB 2048**, **HB 2084**, and **HB 2240**.

The meeting adjourned at 10:31 a.m.

The next meeting is Thursday, February 10, 2005 at 9:00 a.m.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 9, 2005

NAME	REPRESENTING
MARK SCHREIBER	Westar Energy
STEVE JOHNSON	Kansas Gas Service
Larry Holloway	KCC
WALKER HENDRIX	KGS
LARRY BERG	MIDWEST ENERGY
Bruce Snead	~~KANSAS~~ ENERGY COUNCIL
Bill Griffith	Sierra Club
ROB HEALY	HEIN LAW FIRM
Cheryl Saunders	Kansas Gas Service
[illegible]	KANSAS GAS SERVICE
Don Hazefeld	Kansas Gas Service
Janet Allton	Kansas Gas Service
STUART LOWRY	KANSAS ELECTRIC COOPERATIVES
TERRY WILSON	WESTAR ENERGY
Lewis Kimsey	SRS
CANDACE SHIVELY	SRS
April Buchanan	self
Pam Gunter	KGS
Deborah Abner	The Salvation Army
ERIK WISNER	KDA

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 9, 2005

NAME	REPRESENTING
Christine Shively	
Dave Holthaus	Ks Elec Coops
Larry Marullo	Kansas City Power & Light
Lois Liechti	Kansas City Power & Light
Mike Reecht	Great Plains Energy
Whitney Damron	KS Gas Service
John Teefey	KANSAS GAS SERVICE

TOM SLOAN
REPRESENTATIVE, 45TH DISTRICT
DOUGLAS COUNTY

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STATE OF KANSAS

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: HIGHER EDUCATION
MEMBER: UTILITIES
ENVIRONMENT
AGRICULTURAL & NATURAL RESOURCES BUDGET

KANSAS WATER AUTHORITY

Testimony on HB 2048
Utilities Committee
February 9, 2005

Mr. Chairman, Members of the Committee: Generating electricity from renewable resources such as wind, solar, or bio-mass will only suppliment energy produced from fossil fuel and nuclear plants in this country. Notwithstanding the Department of Energy's and other organizations' pronouncements about the midwest being the "Saudi Arabia of wind energy," for a variety of technical reasons, wind, solar, and bio-mass-fueled generation will not supplant coal, natural gas, and nuclear plants as our primary base-load producers of electricity.

However, there is a role for such renewable resources to play in the nation's and state's energy "mix;" just as there is for bio-diesel and ethanol in the transportation system's fuel "mix." More importantly to me, there is a role for renewable energy to play in the Kansas economy and in preserving a rural life style.

Veterans of this Committee have heard me talk about the 45 Kansas counties that experienced population declines between 1990 and 2000. They have heard me speak about Kansas counties with fewer than 1,800 residents in 600 square miles. And, they have heard me speak about how generating electricity from renewable energy can provide significant economic benefits to individual landowners and communities. For example, the Gray County Wind Farm near Montezuma contributes approximately $1 million per year to the community through lease payments to landowners, in lieu of tax payments to communities, employee paychecks, company purchases locally, contributions to local fundraising efforts, etc.

Adding $1 million to the Douglas County economy would be nice, but relatively unnoticed. Putting that money into our rural counties permits children to return "home" from our universities to work on the farms/ranches; keep the schools, and local grocery stores, insurance agencies, auto dealers, and more open. A vibrant rural economy means less demands on urban county residents for tax money to support local schools, roads, and other services.

HB 2048 requires that for most state agencies after January 1, 2007, not less than 2.5 percent of their electricity be generated from renewable energy resources; and that after

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January 1, 2010, not less than 5 percent of their electricity be generated from renewable resources.

This bill does not require the renewable energy to be generated by wind, has nothing to do with the battle over Flint Hills sites, and matches the U.S. Department of Defense's efforts to provide renewable energy to military facilities. The bill is not a statewide renewable portfolio standard that many states are implementing.

The bill requires that the electricity be provided at the utilities' "standard rates for electric service." These are the rates that the Kansas Corporation Commission approves based on the utilities' cost of service, approved earnings, and other factors. This requirement will not create an undue burden on the state's electric utilities. Aquila receives the power from the Gray County Wind Farm and sells part of that power to Midwest Energy. Empire District has contracted for power from the Elk River Project in Butler County and KCPL is developing a request for proposals for 200 megawatts of wind power. What HB 2048 does is operationalize the Governor's proposal to promote wind energy responsibly, provides benefits to Kansas landowners and communities, and invests state taxpayer dollars in Kansas energy rather than Wyoming coal, Oklahoma natural gas, or uranium from wherever.

Members of the Committee, you do not have to share my vision for an energy independent state; but I hope that you share my concern for the people and future of our most rural counties. You should note that of the 10 counties in the United States with the oldest average residents, Kansas has four of those counties. Bringing people back to those communities or keeping them there is important to our state. HB 2048 is not as glamorous as the Bio-Science Initiative, but the development of our renewable energy generating potential, combined with the growth of the bio-fuels market, can save family farms and farmers, small town businesses, and communities.

Thank you for your attention, I will respond to your questions at the appropriate time.

Judicial Center	93,700 kw/year	2 ½% electric usage
Statehouse	139,358 kw/year	2 ½% electric usage

TOM SLOAN
REPRESENTATIVE, 45TH DISTRICT
DOUGLAS COUNTY

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STATE OF KANSAS

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HOUSE OF
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MEMBER: UTILITIES
ENVIRONMENT
AGRICULTURAL & NATURAL RESOURCES BUDGET

KANSAS WATER AUTHORITY

Testimony on HB 2084
February 9, 2005
Utilities Committee

Mr. Chairman, Members of the Committee: Conservation of natural resources has become a key part of American political and public policies. We see recycling bins at Wal-Mart, Dillons accepts aluminum cans, even the Kansas State Capitol has blue recylcing baskets for white paper. Conserving energy is emphasized by the SEER efficiency ratings on furnaces, heat pumps, and air conditioners. The federal government's Star rating system for large appliances emphasizes energy efficiency/conservation.

Kansas utilities have previously been encouraged to support customer energy efficiency and management programs. Generally, those programs have not been very successful because only the customer benefitted – the utility might recover its investment, but lost "opportunities" to earn on those dollars invested. State-sponsored energy efficiency programs understandably have not been well funded with tax money.

HB 2084 attempts to "marry" two concepts – energy efficiency/conservation is desireable because it saves precious resources while helping customers reduce their energy bills and there must be money available to compensate the utilities for their efforts.

The bill directs the Corporation Commission to authorize electric and natural gas utilities to recover 112 percent of their investments in energy conservation programs for residential customers and 110 percent for such investments on behalf of their commercial and industrial customers. In addition, utilities are authorized to recover 112 percent of their investments in programs to reduce uncollectible bills of residential customers.

There are a lot of reasons to oppose this bill, and I am sure that you will hear many of them today. It is more difficult to oppose the concepts of encouraging private sector companies to work with their customers to save money and energy. The bill specifically encourages utilities to work with landlords on energy conservation measures to reduce uncollectible bills due by tenants. The bill requires the Corporation Commission and utilities to develop means to measure energy savings and places responsibility and consequences for wasting energy on customers.

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This bill is far from perfect and I encourage you to think creatively about how to improve it. But, it represents an attempt to capture the values of capitalism – the ability to earn a return on investments – with social responsibility – helping customers reduce their utility bills and save natural resources. A successful program will extend the life of the Hugoton Natural Gas Field and reduce the need for the importation of fuels.

Thank you Mr. Chairman. I will respond to questions at the appropriate time.

Testimony before the Kansas House Utilities Committee

In Favor of H.B. 2048

by
Bill Griffith

Chairman of the Kansas Chapter of the Sierra Club
913-772-8960/bgriff@lvnworth.com

February 9, 2005

Thank you Mr. Chairman and members of the committee for the opportunity to testify in favor of HB 2048. This bill would show a commitment from the state of Kansas to encourage renewable energy development, specifically wind, and send a signal that Kansas is serious about developing its wind and not opposed to it.

The committee is aware that Kansas has been ranked from first to third as the state with the most wind development potential. If you factor in biomass and solar, it is considered the number one state in the U.S. based on a 1999 Union of Concerned Scientists study on renewable potential.

Renewable energy such as wind power can be harnessed here as inexpensively as anywhere in our nation. Since the energy itself does not cost anything the state would be guaranteed a built-in rate freeze on this portion of their electricity bill.

Given the fact that there is one large wind farm in Kansas, and more in the planning and development stage, there will be more than enough wind power to fulfill the requirements of this proposal. We urge the committee to vote yes on HB 2048. Thank you.

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ATTACHMENT 3

Testimony before the
House Utilities Committee
By
Bill Griffith, Chairman of the Kansas Chapter
of the Sierra Club
Atchison, Kansas
February 9th, 2005

Chairman Holmes and members of the committee, I am Bill Griffith, representing the Sierra Club and testifying in favor of HB 2240.

HB 2240 is a model piece of legislation that will jumpstart energy efficiency and conservation programs for customers of the public utilities in Kansas. It recognizes the importance of energy saving programs and the need for the utilities to recover the cost of their investment.

Study after study shows that the cheapest form of new electricity is energy efficiency. It costs less than wind, coal, natural gas, or nuclear power. It cuts pollution quicker than even renewable energy and can be implemented quickly. There is nothing to dislike about energy efficiency and much to admire.

The money consumers save on this investment tends to stay in the local community, boosting its economy rather than to the purchase of fuel for a power plant. (STUDY???)

A pertinent question to ask is, "How do Kansas public utilities compare to utilities in other states, when studying spending per capita on energy efficiency and conservation programs?" The answer is they are tied for 50th. Virginia and Kansas both have an investment of 0 dollars. This is according to the "*State Scorecard on Utility and Public Benefits Energy Efficiency Programs*" developed by the ACEEE using data from the year 2000. It is addendum 1 in my handout.

How about spending as a percent of total annual revenues? Again we dominate the cellar with a 50th ranking again, since you cannot go lower than "0". How about savings as a percentage of total retail sales? Dead last again. Zero is zero. (See addendum 2)

Kansas utility customers have been shut out of any type of meaningful programs of this nature recently, and the only recourse is for our state government to offer leadership in this area.

While critics of public utilities could line up and excoriate them, a better solution is a partnership. The customers get the proven energy efficiency and conservation programs other states have access to and the utilities get compensated for their efforts. This will boost the economy, reduce air pollution, and assist the utilities in their customer relations.

When the issue of the dollar amount of this program is brought forth, that is the right time to remember two salient points: First, every other state but one has opted to make an investment of this type, and secondly, if we do not invest some now, we will be paying much more later when it is rate case time. Thank you.

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APPENDIX B. RANKINGS BASED ON 2000 DATA

Section 1. Spending per Capita

State Ranking by Spending per Capita

Rank	State/Region	Spending per Capita	Rank	State/Region	Spending per Capita
1	Connecticut	$19.48	27	Colorado	$0.81
2	Massachusetts	$15.60	28	Dist. of Columbia	$0.80
3	Rhode Island	$13.33	29	Arizona	$0.71
4	New Jersey	$13.20	30	New Mexico	$0.62
5	Vermont	$10.30	31	Michigan	$0.61
6	Maine	$9.87	32	Maryland	$0.61
7	Wisconsin	$9.16	33	West Virginia	$0.36
8	Hawaii	$9.07	34	Indiana	$0.34
9	New York	$8.57	35	Alaska	$0.34
10	California	$8.43	36	Illinois	$0.33
11	Washington	$6.65	37	Ohio	$0.33
12	Minnesota	$6.65	38	Kentucky	$0.32
13	Iowa	$6.32	39	South Dakota	$0.23
14	Oregon	$5.58	40	Georgia	$0.13
15	Montana	$5.21	41	Nevada	$0.13
16	New Hampshire	$4.00	42	Missouri	$0.11
17	Idaho	$3.81	43	Oklahoma	$0.08
18	Florida	$3.69	44	Mississippi	$0.08
19	North Dakota	$3.37	45	Alabama	$0.07
20	Delaware	$1.91	46	Arkansas	$0.05
21	Wyoming	$1.59	47	Nebraska	$0.05
22	South Carolina	$1.37	48	Louisiana	$0.05
23	Pennsylvania	$1.28	49	North Carolina	$0.03
24	Tennessee	$1.18	50	Kansas	$0.00
25	Utah	$1.16	51	Virginia	$0.00
26	Texas	$1.11	**United States**		**$3.88**

Section 2. Spending as a Percentage of Total Revenues

State Ranking by Energy Efficiency Program Spending as a Percentage of Annual Total Revenues

Rank	State/Region	Spending as % of Revenues	Rank	State/Region	Spending as % of Revenues
1	Connecticut	2.33%	27	Texas	0.11%
2	Massachusetts	2.02%	28	New Mexico	0.09%
3	Rhode Island	1.88%	29	Arizona	0.08%
4	New Jersey	1.68%	30	Michigan	0.08%
5	Wisconsin	1.32%	31	Maryland	0.08%
6	California	1.24%	32	Dist. of Columbia	0.06%
7	Vermont	1.08%	33	West Virginia	0.05%
8	Maine	1.07%	34	Illinois	0.04%
9	New York	1.01%	35	Indiana	0.04%
10	Washington	0.94%	36	Alaska	0.04%
11	Minnesota	0.93%	37	Kentucky	0.04%
12	Hawaii	0.81%	38	Ohio	0.04%
13	Iowa	0.80%	39	South Dakota	0.03%
14	Oregon	0.78%	40	Nevada	0.02%
15	Montana	0.65%	41	Georgia	0.01%
16	Idaho	0.52%	42	Missouri	0.01%
17	Florida	0.44%	43	Oklahoma	0.01%
18	New Hampshire	0.43%	44	Mississippi	0.01%
19	North Dakota	0.42%	45	Alabama	0.01%
20	Utah	0.23%	46	Nebraska	0.01%
21	Delaware	0.22%	47	Arkansas	0.01%
22	Pennsylvania	0.15%	48	Louisiana	0.00%
23	Wyoming	0.15%	49	North Carolina	0.00%
24	Colorado	0.14%	50	Kansas	0.00%
25	South Carolina	0.13%	51	Virginia	0.00%
26	Tennessee	0.13%	**United States**		**0.47%**

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Section 3. Savings as a Percentage of Total Retail Sales

State Ranking by Energy Efficiency Annual Program Savings as a Percentage of Total Annual Retail Sales

Rank	State/Region	Savings as % of Sales	Rank	State/Region	Savings as % of Sales
1	Connecticut	6.79%	27	Ohio	0.55%
2	Wisconsin	5.52%	28	Pennsylvania	0.48%
3	Minnesota	5.46%	29	Maine	0.42%
4	Rhode Island	5.13%	30	Virginia	0.36%
5	California	4.66%	31	Georgia	0.26%
6	Massachusetts	3.96%	32	North Dakota	0.24%
7	Washington	3.70%	33	West Virginia	0.24%
8	New Jersey	3.65%	34	Oklahoma	0.20%
9	Maryland	3.64%	35	Kentucky	0.20%
10	Oregon	3.59%	36	Alaska	0.14%
11	Florida	3.52%	37	New Mexico	0.14%
12	Vermont	3.08%	38	Mississippi	0.14%
13	Utah	2.45%	39	Alabama	0.12%
14	Dist. of Columbia	2.35%	40	Michigan	0.09%
15	Idaho	2.34%	41	Nebraska	0.08%
16	New York	2.26%	42	South Dakota	0.08%
17	Iowa	2.17%	43	Arkansas	0.06%
18	Tennessee	1.89%	44	Illinois	0.05%
19	Montana	1.80%	45	Arizona	0.04%
20	Wyoming	1.79%	46	Nevada	0.04%
21	New Hampshire	1.60%	47	North Carolina	0.03%
22	Texas	1.30%	48	Missouri	0.02%
23	Colorado	1.15%	49	Louisiana	0.02%
24	Indiana	0.79%	50	Kansas	0.00%
25	South Carolina	0.60%	NA	Delaware	NA
26	Hawaii	0.57%	**United States**		**1.66%**

Source: Data indicators derived from data sets presented in Appendix A.

4-4

Testimony before the House Utilities Committee
by
Bill Griffith
Chairman of the KansasChapter of the Sierra Club
February 9th, 2005

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The committee is aware that Kansas has been ranked from first to third as the state with the most wind development potential. If you factor in biomass and solar, it is considered the number one state in the U.S. based on a 1999 Union of Concerned Scientists study on renewable potential.

Renewable energy such as wind power can be harnessed here as inexpensively as anywhere in our nation. Since the energy itself does not cost anything the state would be guaranteed a built-in rate freeze on this portion of their electricity bill.

Given the fact that there is one large windfarm in Kansas and more in the planning and development stage, there will be more than enough windpower to fulfill the requirements of this proposal. We urge the committee to vote yes on HB 2048. Thank you.

4-5

Utilities Committee
Kansas House of Representatives
Written Testimony of Bruce Snead

Kansas Energy Council – Energy Efficiency Representative

Manhattan, Kansas

February 9, 2005

HB 2240

Mr. Chair and members of the committee, thank you for the opportunity to speak on behalf of this bill. My experience, research and knowledge of Kansas tells me that we have very significant untapped potential to use energy more efficiently, to conserve and extend the life of increasingly scarce energy resources, to reap economic and environmental benefits in the process, and provide better energy services to Kansas citizens. And that we can do so with very reasonable dollar investments that more than return benefits compared to costs.

Why should the utilities, or some other agency or entity conduct energy conservation and efficiency programs for customers? Why is this bill needed?

Because, there is demonstrated potential, as has been shown in many other states, to delay or avoid adding costly generation, to stabilize or reduce total utility bills for customers, to reduce demand for natural gas, to reduce pollution, and to enhance economic development.

Because, with a few exceptions, there are virtually no programs being offered by Kansas utilities that tap into this potential.

Because, there are numerous examples of successful and exemplary programs being conducted elsewhere where key components and actual results have been identified.

Because, the general public and citizens, when asked, have consistently expressed understanding of the logic of energy efficiency and support for efforts to invest more resources to achieve cost effective results.

Where does Kansas rank in energy efficiency investments? Several sources provide a consistent picture of where we stand. At the bottom. The LIHEAP Clearinghouse Summary of Supplements to Energy Assistance and Energy Efficiency is a continuously updated, state-by-state compilation of the resources that supplement LIHEAP and low-income energy efficiency programs. Kansas does not

HOUSE UTILITIES

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contribute any state funds to weatherization. A quick comparison shows the average contribution to weatherization from state's with system benefit charge funds (20 states not incl.CA) is $3.97 million. A quick comparison shows that the average contribution to weatherization from utilities sources (17 states not incl. CA) is $1.64 million.

Charts prepared by the National Association for State Community Services Program on state weatherization funding from PVE and Other sources for the years 1992 through 2002 show essentially no contributions by Kansas.

Several studies by the American Council for an Energy-Efficient Economy (ACEEE), a nonprofit organization dedicated to advancing energy efficiency as a means of promoting both economic prosperity and environmental protection, show how the states rank in terms of energy efficiency investments from utilities and state benefit funds, and also in energy efficiency policies. These studies are:

- Examining the Potential for Energy Efficiency to Help Address the Natural Gas Crisis in the Midwest, January 2005
- Five Years In: An Examination of the First half-Decade of Public Benefits Energy Efficiency Policies, April 2004
- Responding to the Natural gas Crisis: America's Best Natural Gas Energy Efficiency Programs, December 2003
- Energy Efficiency's Next Generation: Innovation at the State Level, November 2003
- State Scorecard on Utility and Public Benefits Energy Efficiency Programs: An Update Report, December 2002

The State Scorecard Update Report analyzed utility spending on energy efficiency programs in each state, which included scoring and ranking states based on the following parameters:

- Energy efficiency expenditures as a percentage of utility revenues;
- Energy efficiency expenditures per capita
- Electricity savings as a percentage of electricity sales

Reviewing Appendix A and Appendix B, Sections 1-3 from the State Scorecard Report show Kansas at the bottom of the fifty states in these rankings and indicators.

How about energy efficiency policies? The ACEEE report, Energy Efficiency's Next Generation: Innovation at the State Level - 2003, describes the major categories of energy efficiency initiatives, summarizes the actions taken in the states, and provides guidance for further action. Table ES-2, A Quick Index of State Energy Efficiency Policies shows a blank line for Kansas in the seven policy categories of :

1. Appliance and Equipment Standards
2. Building Energy Codes
3. Combined Heat and Power
4. Facility Management
5. Tax Incentives
6. Transportation
7. Utility Programs

Kansas actually has taken some significant steps in the Building Energy Code area through Department of Energy Special Project funding, and the action of the KEC and the Legislature two years ago in updating building energy codes. That action is not reflected in this report.

Even though this is substantial evidence of where Kansas stands, I further researched and reviewed Kansas' utilities through world wide web searches and visits to their web sites, including IOU's, rural cooperatives and several municipal energy agencies. A search through the Federal Energy Management Program of the US Department of Energy found no public purpose energy or utility programs available in Kansas. The Residential Energy Efficiency Database maintained by the National Center for Appropriate Technology for the US Department of Health and Human Services is designed to display what energy efficiency programs your utility and/or state offers to help you save energy and money. The search for Kansas reveals 25 listings for programs in 11 REC's, Kansas City Board of Public Utilities, and Kansas City Power and Light. The programs are primarily rebates for electric water heaters, heat pumps or ground source heat pumps. A few offer in home energy audits. Midwest Energy has a fine program of home and business energy services, most for fees, which help customers identify energy efficiency opportunities. Kansas City Power and Light's only entry is for on-line home energy audits. Aquila's website for Kansas energy efficiency programs lists only scholarships for high school seniors whose parents are customers as its only effort. Kansas Gas Service' web site simply lists some energy savings tips. WESTAR makes energy efficiency booklets, videos and DVDs available free to its customers upon request. You heard from WESTAR recently on what its approach is going to be. Was energy efficiency's role even mentioned?

What could Kansans save and how could they benefit from investments in energy efficiency?

The US DOE website on states with system benefits charges shows the following table (based on an ACEEE report), with annual amounts spent for energy efficiency and also cents/KWh. This gives some idea of the range of spending in 23 states as of the end of 2002.

State	Total Annual SBC Funds (millions)	Annual SBC Funds for EE (millions)	Cents/kWh spent for EE (millions)
Arizona	$28	$4	.014¢
California	$525+	$228	.13¢
Connecticut	$118	$87	.3¢
Delaware	$3	$1.5	.018¢
District of Columbia	$8	TBD	TBD
Illinois	$83	$3	.003¢
Maine	$23	$17	.15¢
Maryland	$34+	TBD	TBD
Massachusetts	$147	$117	.25¢
Michigan	$50	TBD	TBD
Montana	$14	$9	.07¢
Nevada	TBD	TBD	TBD
New Hampshire	$17	$7	.08¢
New Jersey	$129+	$89.5	.135¢
New Mexico	$5+	--	--
New York	$150	$83	.83¢
Ohio	$115	$15	.01¢
Oregon	$60	$32	.1¢
Pennsylvania	$98	$11	.01¢
Rhode Island	$17	$14	.21¢
Texas	$237	$80	.033¢
Vermont	TBD	$13	.25¢
Wisconsin	$11	$62	.12¢

http://www.eere.energy.gov/state_energy/policy_content.cfm?policyid=64

ACEEE's Five Years In: An Examination of the First half-Decade of Public Benefits Energy Efficiency Policies, indicates that for states with comprehensive statewide PBF energy efficiency programs, funding tends to be in the range of 1-3% of total utility revenues.

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In dollar amounts, state evaluations and other studies have generated specific amounts that follow policy and goal recommendations. A study by the Southwest Energy Efficiency Project for six states in that region show a range from $2 million to $12 million per year in 2001-2002, with significant benefits obtainable with ramping up to nine times that amount through a surcharge of .02 cents per kWh.

A recent study showed that if Indiana invested in energy-efficiency measures, over 15,000 new jobs could be created by the year 2020. In addition to creating new jobs, energy-efficiency projects would reduce consumer and business energy spending by over $700 million - money that could be invested elsewhere in the state and positively impact the economy.

Iowa's utilities are presently spending about $36 million per year on electric efficiency programs and $12 million per year on natural gas programs. Wisconsin's program indicates about $62 million from all sources.

ACEEE's report, Natural Gas Crisis in the Midwest, indicates there is considerable research from leading states that a broad group of energy efficiency programs can save electricity at a cost of 3 cents per kWh and natural gas at a cost of $1.50 per Mcf. These costs of conserved energy are much cheaper than the corresponding costs to obtain supply side energy resources, thus they are cost effective just for the energy resource they provide.

States have three core decisions to make when designing their efficiency funding programs. First, how much should they spend; second, how long should they provide funding; and third, who should have control over spending.

What is the appropriate amount for Kansas to invest in these types of programs? This legislation is a starting point for establishing that energy efficiency in all sectors can extend the life of existing resources and help reduce demand. It is essential that we take advantage of the knowledge gained by other states and programs to appropriately ramp up a program that is tailored for Kansas and its conditions. This legislation creates two paths to accomplish this. One through utilities based programs and one through a program managed by the KCC. Both will have oversight by the KCC. The bill is a proposal which can be improved with input by interested parties, including utilities and other energy service providers, as well as those who represent low income consumers, and utility customer advocates. But it is clear that we need to move ahead with an energy efficiency agenda for Kansas and the legislature and the governor can exert leadership in this area, as they have done in other energy dimensions, such as wind energy. I am ready to work with all parties in this effort.

What does the legislation do?

- Requires each public utility to invest in energy efficiency based on certain percentages of gross operating revenue.
- Gives the KCC authority to require more investments for utilities projecting certain peak demand deficits.
- Gives the public utilities the determination of what portion of the required amount will be spent on energy conservation improvements according to its own two year plan (which must be approved by the KCC), or for the energy and conservation fund, which will be overseen by the KCC for the purposes of programs designed to meet the energy conservation needs of low-income persons and to make energy conservation improvements in areas not adequately served under the utility plans.
- The KCC may establish a list of programs for the utilities.
- Every public utility must have at least one program.
- Every public utility can dedicate 10% of its own two year plan funding to research and development projects serving any energy improvement programs the utility funds directly.
- Every public utility can spend up to 3% of its two year plan spending obligation may be used for program pre-evaluation, testing and monitoring and program audit and evaluation.
- The KCC can order an independent audit of the utility's conservation improvement programs and expenditures which must specify the energy savings or increased efficiency in the use of energy within the service territory of the utility that is the result of the spending and investments. The audit must evaluate the cost-effectiveness of the utility's conservation programs.

Member – Kansas Energy Council – Energy Efficiency representative

Bruce Snead

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February 9, 2005

TO: Representative Holmes and Members of the House Utilities Committee

FROM: Trudy Aron, Executive Director

RE: Support of HB 2048

Mr. Chairman and members of the Committee, I am Trudy Aron, executive director, of the American Institute of Architects in Kansas (AIA Kansas.) I am unable to address you in person as I am in Washington, DC. However, we would like to express our support of HB 2048.

AIA Kansas is a statewide association of architects and intern architects. Most of our 700 members work in over 120 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.

HB 2048 requires that state agencies use specific percentages of electricity from renewable resources by certain dates. We wholeheartedly support this policy. Our state must decrease its dependency on electricity derived from fossil fuels and pollution laden sources.

The American Institute of Architects supports and encourages planning policy and design strategies that support environmental responsibility and the development of healthy, livable communities. The State of Kansas should be a leader in the use of non-polluting, renewable and sustainable sources of energy. HB 2048 is a start, let us work together to keep our skies blue and our air clean.

If you have questions or would like additional information form us, please let my office know.

Executive Director
Trudy Aron, Hon. AIA, CAE
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DATE: 2-9-05
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HB 2048 ⁕ HB 2084 ⁕ HB 2240
Testimony before House Utilities Committee
February 9, 2005

Presented by Bruce Graham, KEPCo, on behalf of:

Kansas Electric Power Cooperative, Inc. (KEPCo) – Topeka, Kansas
Sunflower Electric Power Corporation – Hays, Kansas
Kansas Electric Cooperatives, Inc. – Topeka, Kansas
Midwest Energy, Hays, Kansas
Westar Energy – Topeka, Kansas

Thank you for the opportunity to present testimony on these three proposals.

HB 2048
The electric cooperatives in Kansas and Westar Energy support the development of renewable resources as part of our mission to provide reliable and affordable energy to our customers in Kansas. HB 2048 creates a Renewable Portfolio Standard (RPS) for state agencies which would be subsidized at the expense of other Kansas ratepayers. Renewable energy costs are generally higher than traditional utility generated energy and the bill prohibits the utility from passing along the actual cost of that generation to the state agency therefore creating a subsidy and potentially forcing other utility customers to pay higher rates.

While HB 2048 would implement a limited RPS, any RPS creates an artificial market and distorts the real value of such generation. The reliability and efficiency of renewable generation continues to improve but an RPS, by creating an artificial market, could slow efforts to reduce the cost of what is still a more expensive and less reliable generation source. Furthermore, there are no contractual terms stated in this mandate. 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 the state moves its business to another provider.

This mandate and a statewide renewable portfolio standard will receive further review in the coming year. The Kansas Energy Council has publicly stated its intent to study the RPS concept. In addition, Governor Sebelius, in a letter to Kansas utilities, notes that she has asked state agencies and Regents to study the economic impact of the same mandate level outlined in HB 2048. We will be interested in the results of that study and hope that it reflects not only the cost of the resource but the administrative burden and the impact on affected utilities.

The administrative burden on state agencies and the utilities to implement this provision could be substantial. As written, each agency could aggregate the demand of facilities under its control when calculating the renewable requirements or purchase the 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. Alternatively, if a utility serves a large state agency facility, it could be conceivable that the full renewable resource requirement for an entire state agency might be assigned to that one facility.

Finally, 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.

HB 2084

Providing additional incentive to utilities for energy conservation programs is a concept already permitted by Kansas law (the current statute follows). We recognize the differences between HB 2084 and current law including the "return of investment" versus "return on investment" and the use of "shall authorize" instead of "may allow" as it applies to the incentive. The non-profit member-owned status of the electric cooperatives would discourage utilization of either provision and Westar is neutral on the proposal. Furthermore, while section 1(b) of the new bill specifies an innovative program idea, we believe such an arrangement would be eligible under the broader provisions of current law.

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.

HB 2240

The electric cooperatives have a history of support for programs that encourage energy conservation by our members. For example, most electric cooperatives in Kansas provide a rebate program for the purchase of energy efficient heating systems and water heaters. Several also utilize the Energy Resource Conservation Loan Program that provides loan funds for customers wanting to install energy efficient heating and cooling systems, and many sponsor or perform energy efficiency studies and services for their members. All of these programs have produced measurable benefits that justify the cost.

Westar Energy has several conservation rates in place and provides free energy audit information to residential customers. Commercial customers benefit from energy audits offered by the company and Westar works with its large industrial customers on efficient electro-technologies.

This complex bill, however, would require additional investment by Kansas utilities in energy conservation programs in an amount estimated to be as much as $50 million dollars annually. This cost would be borne by the ratepayers. The revenues required to be invested in programs or paid to the state under the provisions of this bill are revenues that were already justified through an extensive cost of service review. The only source of revenue to fund this proposal is from customers — in other words a $50 million rate increase. Before increasing costs to the consumer/taxpayer for another state program, a determination should be made as to whether the spending will result in a net benefit.

Better yet, let the consumer decide where to spend that $50 million. With the price of fuel for driving, heating, cooling, and manufacturing at record highs, consumers are increasingly interested in conservation methods. When consumers see an economic benefit to investment in energy efficiency, they will do so as an individual economic choice.

Testimony on House Bills 2048, HB2084 and HB2240 before the House Utilities Committee on Wednesday, February 9, 2005

Presented by Lois Liechti
Manager, Regulatory Affairs
Kansas City Power & Light Company

In Opposition of House Bill No. 2048

Chairman Holmes and Members of the Committee:

My name is Lois Liechti and I am Manager of Regulatory Affairs for Kansas City Power & Light Company. I am appearing before you today in opposition to House Bill No. 2048 relating to requirements for renewable resources for certain state agencies.

I would like to thank the Committee for allowing me to be here this morning and speak on behalf of KCPL.

The intent of House Bill No. 2048 is to further the development of renewable generation resources by mandating state agencies fill at least 2.5% of their electric energy requirements with renewable resources by 2007, and 5% by 2010. The Bill further states agencies must meet these requirements regardless of their electric provider, and at the electric provider's standard rates for electric service.

KCPL supports the development of renewable resources, and is currently pursuing the addition of wind power generation to our generation fleet. Renewable resources can provide environmental benefits, and serve to diversify generation portfolios, reducing dependence on any one-fuel source.

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KCPL has been working with the Kansas Corporation Commission ("KCC" or "Commission"), Citizen's Utility Ratepayer Board, and other parties to develop a comprehensive plan to secure electric resources for the future, which considers environmental impacts. KCPL believes that working with the Commission is the best way to consider the full range of electric supply issues. By addressing these needs with the Commission, all parties have a voice in the ultimate outcome. The needs of customers for reasonably priced, reliable, safe, and environmentally responsible electricity can all be considered. KCPL is concerned that the provisions of House Bill No. 2048 shortcut this important process, which considers the appropriate role of renewable resources for all customers, as a component of total resource needs.

KCPL opposes House Bill No. 2048 as it mandates renewable resources for a segment of KCPL's customers. The Bill also requires the remaining customers to subsidize the investment, as the Bill also mandates the utility supply this resource at standard price. Renewable resources are but one potential component of a utility's supply portfolio and should be not be required without examining all the options available.

In Opposition of House Bill No. 2084

KCPL opposes House Bill No. 2084, as it believes Kansas's law currently provides the KCC authority to allow utilities recovery of energy efficiency and conservation programs.

KCPL's Kansas retail electric business is subject to the jurisdiction of the KCC. In exercising its authority, the KCC regulates KCPL's Kansas's retail electric rates. The KCC is required by law to set just and reasonable rates. Rates are set on prudently incurred costs, and may include investments in energy efficiency and conservation programs.

KCPL recognizes and accepts the authority of the KCC over its regulated activities and is currently engaged in discussions with the KCC Staff, Citizen's Utility Ratepayer Board and other parties in regard to the adequacy of KCPL's future supply requirements. KCPL's proposal before the KCC is a comprehensive plan including environmental considerations, energy efficiency, conservation and demand response programs, wind energy, distribution investments and coal-fired generation. KCPL believes these discussions with the input of all the parties, will result in a plan that balances a multitude of issues, including recovery of expenses associated with energy efficiency and conservation programs.

In summary, KCPL believes that the KCC already has the authority to set rates allowing for recovery of prudently incurred costs, including those suggested in this proposed bill. KCPL believes conservation and energy efficiency are important components of resource plans, and Kansas utilities should work with the KCC to ensure both the efficacy of the overall plans, and the recovery of the costs associated with the plans.

In Opposition of House Bill No. 2240

I am appearing before you today in opposition to House Bill No. 2240. KCPL wants to make clear that we support the Bill in concept but with many reservations as to the detailed nature of the Bill. As stated, this Bill relates to energy efficiency and conservation programs and the provision for recovery of certain amounts therefore.

KCPL supports energy efficiency and conservation programs as part of a comprehensive overall resource plan. As I suspect that many of you on the committee are aware, KCPL has been working with the Kansas Corporation Commission Staff ("KCC" or "Commission"), Citizen's Utility Ratepayer Board, and other parties to develop a comprehensive plan to secure electric resources for the future. The plan, as proposed, considers efficiency and conservation programs, demand response programs, environmental impacts, wind energy, and coal-fired generation. KCPL believes that this approachcollaboration with the appropriate stakeholders--is the best way to consider the future energy needs of this state.

This approach first began as in internal process at KCPL, with KCPL evaluating the future needs of its customers and how best to meet those needs. The process was expanded to include many outside experts and outside participants. KCPL held public forums throughout the service area to solicit public input. Finally, KCPL formally filed with the KCC to open a docket and investigation into the planning and regulatory plan of KCPL. This process has taken well over a year to this point. During this time, many ideas have surfaced that have helped mold the plan that is now being discussed with the parties of the case in Kansas. By addressing these needs with the Commission Staff, all parties have a voice in the ultimate outcome. The needs of customers for reasonably priced, reliable, safe, and environmentally responsible electricity can all be considered. While KCPL is very supportive of energy efficiency and conservation programs, KCPL is concerned that the provisions of House Bill 2240, by its restrictive and prescriptive nature, circumvent other solutions, which may better meet the needs of Kansas's constituents.

KCPL believes it is important that utilities in conjunction with the KCC, Citizens Utility Ratepayer Board and other parties, such as the Kansas Energy Counsel (KEC) have the flexibility to develop energy efficiency and conservation programs that best fit the needs of the utility and the utility's customers. KCPL believes that these programs should include all utilities to ensure the best statewide solution. KCPL does not agree with the tiered approach to charging electric utilities with nuclear facilities a higher charge than non-nuclear, and natural gas utilities an even lower charge. KCPL also does not agree that a mandated state fund should be established, but should be left on a voluntary basis.

KCPL opposes this bill as it is currently written, but supports the overall intent of this bill which would help Kansas meet the future energy needs of the state by including a combination of energy efficiency and conservation programs.

Thank you for your time and I would be glad to answer any questions from the Committee.

Presented by Lois Liechti
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Citizens' Utility Ratepayer Board

Board Members:
Gene Merry, Chair
A.W. Dirks, Vice-Chair
Francis X. Thorne, Member
Nancy Wilkens, Member
Carol I. Faucher, Member
David Springe, Consumer Counsel

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HOUSE UTILITIES COMMITTEE
H.B. 2048

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
February 9, 2005

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2048. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

While CURB is generally supportive of renewable energy resources, CURB does not support, at this time, a mandate that will require utilities in Kansas to provide a set level of energy from renewable resources. CURB believes that more analysis is needed to understand the complexities of operating renewable resources in a utility system, the true costs of renewable resources and the impacts on consumer rates of supplying energy from renewable resources. A mandate requiring renewable resources to be utilized, regardless of our understanding of these complexities, is premature. CURB is also concerned that this bill may increase the electric costs for the state government, and thereby, increase costs to the public for government services.

With regard to this specific bill, if the legislature decides that for policy reasons, the power supplied to a state agency must come from the percentage of renewable resources listed in the bill, certain clarifications should be made to the bill.

First, utilities should be allowed to make a reasonable estimate of their state agency load on an aggregate basis. Utilities should only be mandated to supply the stated percentages of renewable energy on this estimated state agency load, and not on the entire system load.

Second, the bill at 23 states that "the electricity shall be provided at the provider's standard rates for electric service". CURB is concerned that this language seems to indicate an intention to require utility customers other that the state agencies that are the issue of this bill to pay for the cost of the renewable resources mandated in this bill. "Standard rates for electric service" can be interpreted as meaning the cost of renewable energy will become a cost component of all rates set by the Kansas Corporation Commission. This language removes the flexibility of the Kansas Corporation Commission, CURB, the utilities, or other parties to suggest alternative cost recovery mechanisms for the cost of renewable resources, and may simply serve to increase all consumers utility rates.

For example, CURB would suggest that a better cost recovery policy might be to require the creation of a renewable generation rate, separate and distinct from standard retail rates. This would serve two purposes: 1) to isolate the costs of the mandate in this

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bill to the state agencies to which this bill is directed, and 2) it would form the basis of a voluntary rate that consumers could also potentially sign up for, and receive renewable energy service. This voluntary rate, offered to consumers, would also provide a gauge of the public's demand for, and willingness to pay for, renewable energy services. The language in the bill currently would preclude these other cost recovery and rate design proposals.

Section 1(c), should be deleted. The state agency and utility provider should not become subject to civil fines pursuant to this act.

Section 1(d) may need to be clarified to set forth exactly what "funded solely by user fees" means. For example, CURB is fee funded through assessments to utility companies, which are then passed to consumers in utility rates. A more clear statement of who this applies to may be helpful.

Citizens' Utility Ratepayer Board

Board Members:
Gene Merry, Chair
A.W. Dirks, Vice-Chair
Francis X. Thorne, Member
Nancy Wilkens, Member
Carol I. Faucher, Member
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HOUSE UTILITIES COMMITTEE
H.B. 2084

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
February 9, 2005

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2048. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

Energy Efficiency and Conservation (Section 1(a) and 1(c))

This bill is unnecessary and simply duplicates existing law. K.S.A. 66-117(e) provides that the Commission may allow an additional ½% to 2% increase in the utility rate of return for investments that can be reasonable expected to produce energy from renewable resources, cause conservation of energy used by customers or bring about more efficient use of energy by customers.

This bill requires that the Kansas Corporation Commission "*shall*" authorize recovery of 112% (110% for commercial customers) of "*any*" investments in energy efficiency and conservation programs for residential customers. Unfortunately, the bill does not require that these investments actually increase energy efficiency or result in increased conservation. The utility simply receives 12% (or 10% for commercial customers) profit on any money invested, without any requirement that consumer receive an equivalent benefit. CURB believes this an ill-advised, and expensive public policy.

CURB also questions the rationale for paying a utility a higher rate of return on this type of investment. Utility shareholders receive a return on the capital invested in the utility. The utility in turn invests the capital as necessary to provide service. There is no rationale to suggest that shareholders need to receive a higher return on certain types of investments, or that ratepayers should be required to pay a higher return on certain types of investments.

Aside from the higher return on "investments" in energy efficiency and conservation programs, ratepayers will also likely be required to pay the increased expenses associated with administering these types of program. Running these types of programs will require additional employees and administrative expenses, which will also be charge to ratepayers in addition to the higher rate of return on investment.

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Uncollectible Bill (Section 1(b))

This bill requires that the Kansas Corporation Commission "*shall*" authorize recovery of 112% of "*any*" investments programs to reduce uncollectible bills of residential customers. Again, the bill does not require that these programs actually reduce uncollectible bills.

The bill requires the use of "prepaid energy cards or similar programs" that place the "responsibility for wise use of energy on customers at high risk of having uncollectible bills". It appears to be a fundamental assumption of this bill that someone having a high risk of not paying his or her bill does not use energy wisely. CURB suggests that someone at high risk of not paying his or her bill might simply live on a sub-standard income, or might live in sub-standard housing, which is wholly unrelated to wise energy use. To assume that someone that have trouble paying his or her bill doesn't have the same incentive that the rest of us have to keep their energy costs as low as possible is unfounded.

The bill requires the utility, in order to get recovery of the costs in this section, to develop a policy for identifying "such high risk customers" that must be approved by the Commission. The bill is unclear about whether the policies are to be designed to identify customers at a high risk of not paying their bills, or identifying customers that do not use energy wisely, and thereby have trouble staying current on bills. This is a key distinction. While determining who has trouble paying bills may be easy enough, exactly what policy the utility and the Commission will use to determine whether a customer is using energy wisely is beyond comprehension.

Worse yet, the bill appears to be an attempt to take away the protections provided to customers under the cold weather rule, in that cold weather rule "shall not" apply to customers "participating" in the programs instituted by the bill. The bill is unclear whether the "participation" is voluntary or not. However, CURB does not believe it is a good policy to simply remove the protection the cold weather rule affords those who struggle to pay bills. If this portion of the bill does pass, the Committee should make clear that participation in this type of program is voluntary.

CURB does recognize that the issue of uncollectible bills affects all utility consumers. However, CURB believes that there are some systemic problems, both income related and housing related that are more likely indicative of non-payment. Certainly having natural gas costs at record high levels is exasperating the problem. This bill does nothing to address the systemic problems that may be affecting a customer's ability to pay, and simply serves and a mechanism to shut off utility service to portion of Kansas consumers. CURB would suggest that making an attempt to address some of the systemic problems that lead to uncollectible bills (perhaps through a KCC docket addressing conservation and efficiency) is the proper way to help all people in the state pay their utility bills

For the above reasons, CURB respectfully requests that the Committee not pass this bill.

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Citizens' Utility Ratepayer Board

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HOUSE UTILITIES COMMITTEE
H.B. 2240

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
February 9, 2005

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2240. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

CURB estimates that the spending levels required by this bill (Section 2 (a)(1)) amount to a $30 to $50 million annual tax on utility consumers. Once taxed, then the utilities and the Kansas Corporation Commission are suppose to find ways to spend the money on conservation and efficiency programs. CURB objects to this tax first, spend later approach to energy efficiency and conservation.

CURB suggests that this bill not be passed. Rather, CURB would suggest a docket be opened at the Kansas Corporation Commission to develop a more rational approach to developing energy efficiency and conservation programs. CURB suggests that the docket address, at minimum, the following:

- Determine if and when conservation makes economic sense
- Determine what barriers exist to conserving or purchasing energy efficient equipment by consumers
- Determine the best means of overcoming those barriers
- Inventory existing programs: utility, state agency, social service agency
- Establish a consistent platform to provide necessary programs, whether by utilities, government or by a third party agent
- Engage the social service agencies to leverage the objectives of the programs
- Engage other parties (landlord association, schools, etc) to leverage the objectives
- THEN AND ONLY THEN establish what budget level is needed to accomplish the objectives, determine how to fund the budget and determine the appropriate oversight mechanism

From a policy perspective, CURB always encourages consumers to conserve where possible and to make wise energy choices, both in consumption and in investments to improve the efficiency of energy use. Certainly with the high cost of natural gas in the last few years, CURB believes that every consumer has a strong economic incentive to conserve. That incentive comes every month in the form of a heating bill. The data we have seen indicates that consumers are in fact conserving, and average annual natural gas consumption for residential customers has continued to decrease. Aquila, who has a natural gas rate case before the Commission, reports that average annual residential use has declined over 20% in the last decade[1]. This reduction in average natural gas consumption was not the result of a multimillion dollar government program. CURB believes that this is the result of rationale economic behavior on behalf of consumers (we all turned down our thermostats) and by increased investments in things like insulation and furnaces, again, by consumers.

What CURB does not support is a conserve at any cost mentality. Especially since the costs of these programs are ultimately born by utility consumers. While there are times that conservation makes sense, there are also other times when it is more expensive to conserve and to consume. If you would not spend $1000 to save $500, you shouldn't ask utility ratepayers to do the same. This simply ends up costing all utility ratepayers more money, and leads to higher utility rates.

CURB also does not support the wholesale giveaway of conservation measures, (the "free choice of device" at p. 3 line 39) but rather supports helping consumers make good economic choices with their own money. CURB believes a fundamental principle of encouraging energy conservation and efficiency is having consumers have a financial stake in the outcome. We should help consumers upgrade their furnace or insulation if it makes economic sense, but we should do so through low interest loan programs, or reasonable payment schedules or tax credits for investments, not through just giving these things away. Nebraska has a very successful program in this area.

Encouraging conservation and energy efficiency in the electric sector is abit more complex and presents a challenge. To some extent this is due to the fact that we have had very low, and very stable electric rates for many years, which effects the economic payback for conservation investments. Certainly this will change in the future, and conservation and efficiency measure should be a part of our future planning, but again, CURB prefers a more deliberative approach to this complex problem, and not the approach outlined in this bill.

What we as policy makers should endeavor to do is identify those times, or those areas in which conservation or energy efficiency improvements would benefit the utility system as a whole, or would benefit an identified social problem that needs a remedy. CURB would support this type of process, and would be actively involved. What we as policy makers should not do is create a fund of money and spend it, simply because energy conservation and energy efficiency sounds good, as is proposed in this bill.

[1] KCC Docket No. 05-AQLG-367-RTS, Direct Testimony of Richard Loomis, at page 16.

KANSAS
CORPORATION COMMISSION

BEFORE THE HOUSE UTILITIES COMMITTEE
PRESENTATION OF THE
KANSAS CORPORATION COMMISSION
February 9, 2005
HB 2084

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 2084.

This bill allows electric and natural gas public utilities to recover an amount greater than the amount they spend for certain energy efficiency and conservation program investments. Additionally, this bill allows electric and natural gas utilities to recover a greater amount than they spend for programs to reduce uncollectible bills for residential customers while suspending the Commission's cold weather rule for the same customers.

The Commission opposes this bill. The premise of allowing a regulated utility to recover more than its investment is a violation of sound regulatory policy and an incentive to make unwise investments in a fashion that could drastically increase utility rates. Furthermore, this bill's provisions regarding suspension of the Commission's cold weather rule is problematic and ignores the basic purpose of the rule itself, that of public safety and welfare.

The premise of utility regulation is to replicate Adam Smith's "invisible hand" of competition for an industry that is a natural monopoly, such as electric and natural gas service. The concept of allowing a utility to recover more than its initial investment is a violation of this basic premise. Nowhere in a competitive industry does a business recover more it's their initial investment unless it sells that investment or business. All other recovery is captured as a return

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on the investment. It is poor public policy to set up an incentive for regulated natural monopolies to sell investments or businesses that provide critical services.

Obviously the intent of this legislation is not to entice electric or natural gas utilities to sell their businesses to other utilities; nonetheless this could be the outcome of such increased return on investment. Suppose the proposed policy for residential energy efficiency and conservation investments was allowed on all electric and natural gas utility investment. The utility shareholders could sell the business to another utility. The buying utility would be granted, by law, the ability to recover 112% of the selling utility's investments. The purchasing utility could then sell it back to the original utility, further inflating the required recovery from ratepayers by another 112%. While there would be no limit to the amount of times this transaction could occur, the net effect of only two such transactions would be to increase the amount of investment recovered from ratepayers to over 125% of the original investment. This is but one example of why such incentives are poor public policy. Just as public policy should not provide a tax credit for more than 100% of an investment, no regulatory policy should allow recovery of more than the initial investment. Such a policy would obviously cause unneeded and unwanted investments.

This incentive is not even needed. Currently K.S.A. 66-117(e) allows the Commission to award a ½ % to 2 % greater return on conservation and energy efficiency investments:

> 66-117(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. (emphasis added)

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Furthermore, the proposed legislation allows the Commission no discretion in evaluating the reasonableness of any investments made in energy efficiency or conservation for residential or industrial customers, only that these customers have an energy audit. There may well be investments identified by an energy audit that are reasonable and cost effective. In fact some of these investments may even save money for all of the utilities ratepayers. This bill does not allow the Commission discretion in determining either of these factors. The only criterion is that the investment is identified by an energy audit. Suppose an energy audit determines that a $5,000 investment in a new heating and air conditioning system would save a particular residential customer $3 a year on energy costs. Such a utility investment could be made under this statute and the Commission would be required to charge all of the utility's ratepayers $5,600, even though no other customer benefited from the investment and the same investment should have only cost $5,000.

Taken together, the incentive mandated by this legislation undermines the legislative policy direction aimed at ensuring reasonable rates for consumers of electricity and natural gas in the following major areas:

- The Commission is required to " ... establish and maintain just and reasonable rates ... to maintain sufficient and efficient service..." (K.S.A. 66-101b for electric utilities and 66-1,202 for natural gas utilities.
- The Commission "shall determine the reasonable value of all or whatever fraction or percentage of the... property is used and required to be used in its services to the public..." (K.S.A. 66-128).
- "The state corporation commission, in determining the reasonable value of property, ... shall have the power to evaluate the efficiency or prudence of acquisition, construction or operating practices of that utility. ..." (K.S.A. 66-128c).

Section 1(b) of this bill proposes to mandate that the Commission grant an electric or natural gas utility recovery of 112% of its investment in programs to reduce uncollectible bills of

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residential customers through prepaid energy cards or similar programs and suspends the Commission's cold weather rule for customers participating in such programs. The only discretion the Commission is allowed is to review and approve the utility's program for identifying high-risk customers.

First, as discussed, any incentive that allows a utility to recover more than its investment is poor regulatory policy at best and at worst could cost ratepayers much more than they will ever benefit. Additionally, section 1 (b) of this bill allows no discretion by the Commission in determining whether or not the electric or natural gas utility's expenditures will provide overall benefits to other customers. This bill prohibits the Commission from even determining if the expenditures are prudent, needed or provide for more efficient and sufficient service.

Second, and perhaps most important, the Commission's cold weather rule is primarily a matter of public safety. The Commission's cold weather rule was adopted in 1983 "to insure that human health and safety are not unreasonably endangered during cold weather months." During 2001 to 2002 the Commission conducted a generic investigation in Docket No. 02-GIMX-211-GIV to determine if changes were necessary to the cold weather rule. The Commission received filed comments from its staff, CURB, Westar Energy, KCPL, Kansas Gas Service Company, Atmos, Midwest Energy, Empire district Electric, and Aquila. Additionally, the same entities, along with the American Red Cross, AARP Kansas, Pioneer Electric Cooperative, Wheatland Electric Cooperative, the Salvation Army Heat Share Program, and the Low Income Utility Coalition of Kansas, participated in a roundtable discussion on April 17, 2002. After carefully considering the comments and discussions, the Commission issued an order on May 7, 2002 modifying some elements of the cold weather rule, but keeping many aspects of the order in place, finding that it still served to protect "human health and safety." At

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the request of the 2003 Legislature, the KCC held a Cold Weather Rule Roundtable on May 27, 2003. Attendees included those from the previous year, as well as representatives of the industry, Legislators, AARP and the Kansas Catholic Conference. There was consensus from the discussion that the language of the Cold Weather Rule met the requirement of protecting health and safety. A summary report of that meeting is attached.

Third, the Commission does not have discretion under this bill to determine if the utility's expenditures are less expensive than the costs it seeks to collect. Under this legislation the utility could spend, for example, $10,000 on a customer to make sure it collects on the customer's winter utility bill of $500. The Commission would then be required to allow the utility to recover $11,200 from its customers that do pay their bills.

Fourth, the proposed legislation envisions a type of device that takes prepayment cards or something similar to provide utility service. In the late 1980s and early 1990s, Kansas electric utilities, through the Kansas Electric Utility Research Program, ran pilot programs with similar token-operated electric meters. While many of the customers liked the concept, the customers were frustrated by the fact that they could only buy the tokens at the utility walk-in service center from 8am to 5pm on weekdays, and not on holidays. Since that time almost all of the major electric and gas utilities in Kansas have closed walk-in service centers. Regardless, this legislation would not allow the Commission to review, investigate or decide whether or not the utilities' distribution network for pre-paid cards was adequate or available to customers placed on the program. Additionally, it appears that the utility could place any customers that it determines meet its approved criteria on this program, without the customer's agreement or consent.

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KANSAS
CORPORATION COMMISSION

KATHLEEN SEBELIUS, GOVERNOR
BRIAN J. MOLINE, CHAIR
JOHN WINE, COMMISSIONER
ROBERT E. KREHBIEL, COMMISSIONER

May 30, 2003

Re: Cold Weather Rule Roundtable

The Kansas Corporation Commission (KCC) held a roundtable discussion on the Cold Weather Rule on May 27, 2003. Attendance was excellent and included Commissioners and Staff, representatives of electric and natural gas utilities, consumer groups, the Legislature, and a wide variety of social service agencies. More than 30 people accepted the opportunity to make comments and to actively participate in the discussion.

One point that all participants agreed on is that the KCC's Cold Weather Rule is necessary and has played a valuable and essential role in protecting health and safety over the past 20 years. One issue raised was whether the Cold Weather Rule should be modified in any respect. A broad range of views was presented, from strong recommendations to make no changes to the Cold Weather Rule to a suggestion that a three-tier ratchet payment system be imposed so that customers would feel financial distress more quickly and perhaps seek aid or budget counseling earlier. At the conclusion of the roundtable meeting, there was a consensus that Cold Weather Rule issues are more complex than many participants had realized and that the Cold Weather Rule can be better monitored as an administrative regulation instead of a statute. This consensus was agreed to by the social service agencies which had supported House Bill 2186, and by the legislators in attendance, Senator Jay Emler and Representatives Annie Kuether and Cindy Neighbor. There was also an understanding that people and entities affected by the Cold Weather Rule often have contradictory interests and goals, and that there is no single answer that would satisfy everyone's concerns.

Several utilities emphasized the time and expense that was required of them last year when the KCC reviewed all provisions of the Cold Weather Rule and made a number of adjustments. In order to be applied fairly and consistently across the state, Cold Weather Rule requirements and provisions must be clear and easy for customers and company personnel to understand. Any changes in the current Cold Weather Rule must balance possible benefits against known and anticipated costs, such as enhanced systems upgrades, additional training, and customer education and notification costs.

Discussion clarified that many of the concerns of the social service agencies are due to their limited funds and the simple fact that many families do not have enough money to pay their bills. The participants also recognized that solutions may lie in areas other than the Cold Weather Rule, such as better weatherization of dwellings. Both the social service agencies and the utilities commented on their good relationships and willingness to work together to help customers at as early a stage as possible. The KCC, while not directly involved in these areas, remains ready to assist in any way.

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As part of the formal Cold Weather Rule docket in 2002, the KCC investigated and reviewed the cold weather rule programs and policies of all the other states. Most states with potential severe winter weather have a program comparable to the Kansas Cold Weather Rule to protect residential customers. Kansas policies and procedures seem to be in the middle of the range of the states in terms of cost and intrusiveness. The KCC's Cold Weather Rule has stronger protections than some states, but does not have the complicated, more customer-specific processes that several states have implemented. One participant at the roundtable complimented Kansas on the simplicity of its Cold Weather Rule, and several people noted the frustrations and inequities that can occur when a program is difficult to explain to customers or is subject to different interpretations.

After hearing the discussion and considering the issues addressed by the participants, the KCC has concluded that there is no compelling need to change the Cold Weather Rule at this time. The effect from last year's adjustments has yet to be determined, and the primary concerns raised at the roundtable are not specific to implementation of the Cold Weather Rule. Additional work is being done to standardize the manner in which utilities maintain Cold Weather Rule data. The Commission continues to believe that the current Cold Weather Rule does an admirable job of balancing conflicting interests and has served Kansans well for many years. While escalating bad debt is a concern, this issue is addressed for utilities by recovery through rates, and the KCC does not view the Cold Weather Rule as a primary means of debt collection. The Cold Weather Rule protects citizens from freezing temperatures and avoids the need for those with financial difficulties to resort to unsafe heating practices. It is intended to promote the public safety and health and to protect the children of those who have payment arrearages for any reason during the winter months. The KCC will continue to closely monitor this important program and to consider modifications when necessary.

Brian J. Moline, Chairman

John Wine, Commissioner

Robert E, Krehbiel, Commissioner

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BEFORE THE HOUSE UTILITIES COMMITTEE
PRESENTATION OF THE
KANSAS CORPORATION COMMISSION
February 9, 2005
HB 2240

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 2240.

This bill proposes to enact energy efficiency and conservation programs for electric and natural gas public utilities. Section 2 of the bill requires that each public utility "shall spend and invest for energy conservation improvements" by the following amounts: natural gas public utilities—0.5% of its gross intrastate operating revenues; electric public utilities that do not operate a nuclear-powered electric generating plant—1.5% of its gross intrastate operating revenues; electric public utilities that operate a nuclear-powered electric generating plant—2.0% of its gross operating revenues. The bill exempts certain large electric customers provided they receive KCC approval and review. The Commission may also require increased energy efficiency and conservation investments if a public utility forecasts peak demand deficits greater than 100 megawatts within five-years. Any amount not spent by the public utility from the annual amount it collects will be contributed to an energy and contribution fund administered by the KCC. In addition to other duties, the KCC must annually review utility filed plans for conservation spending and contribution to the energy and conservation fund.

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The Commission does not support or oppose this bill. While this bill would establish a sizeable dedicated fund for energy efficiency and conservation, the Commission recognizes that the legislature may wish to address this important public policy issue and this legislation provides adequate authority for the Commission to assure that such programs are done in a cost effective and responsible manner. Nonetheless the Commission does have several concerns regarding this legislation.

First, the bill sets mandatory collection percentages that will recover a large sum of money annually from electric and gas utilities, and ultimately their ratepayers, regardless of any type of analysis of the actual amount needed. While the bill does not adequately define "natural gas service" and "electric service", if one assumes this only applies to retail electric and natural gas service, over $38 million a year would be collected from electric and natural gas public utility customers. Even more problematic, is that this would be collected with no provisions to accurately determine the actual funding needs of any identified efficiency and conservation programs.

Second, this bill only collects the revenue from electric and natural gas "public utilities." Public utilities, as defined by statute, include only those utilities subject to Commission jurisdiction. This would not include sales to customers of deregulated electric cooperatives or the vast majority of municipal electric and natural gas utilities. In the case of electric utilities, the Commission has jurisdiction over roughly 70% of the retail electric service in Kansas. Nonetheless, many of the programs envisioned for the energy and conservation fund would directly benefit all electric and natural gas customers, even those which pay nothing into it, including the provisions of section 5 (b) which requires the fund to address customers that heat with fuel oil or propane.

Third, this bill requires electric utilities with nuclear power plants to contribute more to energy efficiency and conservation than those without nuclear power plants. It is difficult to understand why this provision singles out nuclear power. While nuclear plants constructed in the 1980s certainly had higher capital costs than conventional coal or natural gas plants, their fuel

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costs then, and now, remain lower than those of plants that burn natural gas or even coal. Energy efficiency and conservation improvements are generally less needed and less cost justified for utilities that already have cheaper fuel costs. Therefore it makes little sense to single out nuclear utilities and their customers for higher energy efficiency and conservation subsidies. If anything, nuclear utilities and their customers should contribute less.

Finally, this bill provides an exemption for contributions by large electric customer facilities that provide evidence of competitive economic pressures, provided they have made a reasonable effort to implement cost effective conservation improvements. Additionally, the bill anticipates the Commission will thoroughly investigate these claims, both initially and subsequently for compliance with the exemption requirements. However, it is not clear what, if any, authority the Commission has to audit and inspect the facilities or accounts of any large electric customer seeking such an exemption.

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GOVERNMENT RELATIONS
TESTIMONY HB 2084
February 9, 2004

Thank you Mr. Chairman and members of the House Utility Committee for this opportunity to provide testimony on HB2084. My name is Michael Klein, Divisional Government Relations Director for The Salvation Army Kansas and Western Missouri Division. The Salvation Army is among the largest faith-based social services agencies in Kansas providing multiple family-support programs for individuals, families and children.

The Salvation Army is involved in partnerships with the state, utility companies, businesses and other community and faith-based agencies to efficiently utilize limited funds that assist low-income working families unable to meet their basic needs.

The purpose of this testimony is to voice our concern for the section of the bill that would allow utilities to develop programs for customers identified as "high risk," such as requiring prepayment for utility bills. Also, and of equal concern, customers enrolled in these programs would NOT have protection against disconnection during freezing weather under the Cold Weather Rule. It is our experience that the Cold Weather Rule is necessary and has played a valuable and essential role in protecting the health and safety of families over the past 20 years. It is our understanding that the bad debts issue is addressed for utilities by recovery through rates and that the Cold Weather Rule is not viewed as a primary means of debt collection.

We are encouraged by the language on energy efficiency and conservation programs. We have had many discussions on better weatherization that will upgrade and make affordable the existing housing stock.

According to the Department of Energy in their "Short-Term Energy Outlook-November, 2004" report, the price of home heating oil is expected to be 38.2 percent higher this winter than last. The price of propane is expected to be 22.3 percent higher and the price of natural gas is expected to be 12.1 percent higher. According to the Kansas Geological Survey report just released this week, wells in the state of Kansas produced $3.5 billion worth of oil and natural gas last year. The total, an all-time high for the state, was up about $500 million from 2003. The report showed that the record came on the back of increases in oil and gas prices, not as a result of increased production.

The working poor who are playing by the rules and do not have enough money must choose which bill to pay: Utilities, food, rent health care! They are high risk.

Thank you!

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ATTACHMENT 11

Kansas Department of

Social and Rehabilitation Services

Gary Daniels, Acting Secretary

House Committee on Utilities
February 9, 2005

HB 2084 - Energy Efficiency and Conservation Programs

Integrated Service Delivery Division
Candace Shively, Deputy Secretary
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HOUSE UTILITIES
DATE: 2-9-05
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Kansas Department of Social and Rehabilitation Services
Gary Daniels, Acting Secretary

House Committee on Utilities
February 9, 2005

H B 2084- Energy Efficiency and Conservation Programs

Mr. Chairman and members of the Committee, thank you for the opportunity to appear on HB 2084. My name is Candy Shively, Deputy Secretary for the Department of Social and Rehabilitation Services. This legislation proposes the use of prepaid energy cards or similar programs for consumers at high risk of having uncollectible bills. The Department is concerned about the impact of these changes on low-income Kansans.

Specifically, SRS is concerned with the provision of this bill that would remove the protection of the Cold Weather Rule for consumers who participate in a prepaid energy card program. Such a program would limit the amount of service provided based on a pre-payment. Many low-income Kansans don't have the resources to either pre-pay for service or to pay a heating bill in full each month. Many of these families rely on some type of payment averaging plan. While the consumer has the responsibility to pay their heating bill, the proposal should consider the person's resource capacity.

During 2004, the Low Income Energy Assistance Program (LIEAP) provided services to 45,072 Kansans whose income was at or below 130 percent of the Federal Poverty Level (FPL) or an annual income of about $20,400 for a household of three. Seventy-four percent of these families had income below 100 percent of the FPL (about $15,700). These families are most vulnerable to the provisions of this bill, and could be placed in danger during extreme cold weather as they seek alternative means to heat their homes.

Thank you for the opportunity to provide testimony on this issue. I will be happy to respond to questions.

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AARP Kansas

February 9, 2005

Representative Holmes, Chair
House Utilities Committee
HB 2084

Good morning Chairman Holmes, members of the Committee, I appreciate the chance to appear today and to make a brief statement on House Bill 2084.

My name is David Wilson and I am an Executive Council Member for AARP Kansas, which represents the views of our more than 350,000 members in the state of Kansas. I am here to request that the Committee oppose approval of the bill.

First of all we recognize that the bill's announced subject is a worthy one -- energy efficiency and conservation and should be practiced by all.

Our opposition to HB 2084bill is based on the following:

1) The bill's provision for prepaid energy cards threatens the use of the current Cold Weather Rule. The procedures for such cards are likely to be an obstacle to ratepayers, and their exposure to utility cutoffs would probably be greater than at present. The possibility of increasing the hazard of cold weather is a serious concern for AARP -- especially for low-income seniors.

2) Accordingly, although the direct cost of such programs may be plain, there is no guidance as to what constitutes total cost. Without a definition of investment or cost, the bill can be read to allow indirect pro rata costs such as executive compensation, corporate debt service, employee benefit programs, public relations, and so forth. Such wide freedom does not appear to be prudent public policy.

3) The bill directs that "The . . .Commission **shall** authorize . . . " 12% recovery of costs [emphasis added]. It therefore locks in the rate of return and restricts the Kansas Corporation Commission's ability to make considered judgments based on changing financial conditions. We leave it to the Commission to weigh in on this concern, however.

In conclusion, we are opposed to the language of HB 2084 and we urge the Committee to reject it. Thank you for your consideration of our request.

Respectfully
David Wilson

HOUSE UTILITIES

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KANSAS GAS SERVICE
A DIVISION OF ONEOK

HOUSE BILL NO. 2240

Testimony of Glenda Cantrell
Manager, Customer Service
501 SW Gage Blvd., Topeka, Kansas 66606
On Behalf of Kansas Gas Service
February 9, 2005

- HB 2240 is extremely complicated with several mandates and directives for electric and gas utilities and State government.

- Because of its complexity and its numerous prescriptions it is very difficult to fully comprehend the breadth of this proposal.

- The bill is funded as a percent of gross revenues and does not indicate why this amount of money is to be collected but, clearly its intent is to assess utilities and by definition their customers, your constituents.

- The Kansas Corporation Commission will:

    - Need to add more staff,
    - May order certain conservation programs and requires utilities to file conservation improvement programs,
    - Is required to evaluate a utility conservation program on the basis of its cost effectiveness and the reliability of technologies employed.

- The bill only allows three percent of a utility's funding to go for "program pre-evaluation, testing and monitoring and program audit and evaluation."

- We believe it allows a utility to recover its expenses but is not clear on the mechanism, a rate case or a surcharge.

- It appears to require a utility to target conservation improvements in areas where propane and fuel oil are used, which is not the majority of energy consumed in the state.

KANSAS GAS SERVICE
A DIVISION OF ONEOK

HOUSE BILL NO. 2084

Testimony of Glenda Cantrell
Manager, Customer Service
501 SW Gage Blvd., Topeka, Kansas 66606
On Behalf of Kansas Gas Service
February 9, 2005

- Seems to duplicate incentives that are already available under K.S.A. 66-117 (e)

- Might provide a higher return than is available under existing law for initiating conservation investments.

- Does not indicate whether the expenses would be recovered in a rate case or as part of an automatic adjustment mechanism or surcharge.

- Not entirely clear how it would actually affect a particular customer.

- Does not provide a rationale for the different recovery rates that are included in the bill.

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KANSAS GAS SERVICE
A DIVISION OF ONEOK

HOUSE BILL NO. 2240 and 2084

Testimony of Glenda Cantrell
501 SW Gage Blvd., Topeka, Kansas 66606
On Behalf of Kansas Gas Service
February 9, 2005

My name is Glenda Cantrell. I am the Manager of Customer Service for Kansas Gas Service. I appear as an opponent of H.B. 2240 and 2084.

H.B. 2240 is an extremely complicated bill with several mandates and directives for electric and gas utilities and state government. This bill will undoubtedly have a high fiscal impact, requiring the employment of additional personnel at the Kansas Corporation Commission, and it will result in significant increases in expenses for utilities, causing the rates of customers to increase, if it is enacted. The bill is internally inconsistent in places and references procedures that are not now common to the Corporation Commission. Because of the complexity of the bill and its numerous prescriptions, it is very difficult to fully comprehend the breadth of this proposal, even after several readings, or the unintended consequences that may result.

The bill is funded as a percent of gross revenues. Section 2 (a) (1) (A). The bill does not indicate why this amount of money is to be collected, but it is clear from the scope of the bill and the number of programs referenced that its intent is to assess utilities, and by definition, their customers, to fund a large conservation program in the state. Given the dramatic decreases in per capita consumption of natural gas over the last thirty years and the successful conservation measures that have been implemented during this time period, it is difficult to see how a program of this magnitude is needed. Experience also has shown us that interest for these types of programs declines over time.

The bill provides for exemptions in certain instances and institutes a procedure for appealing a determination that the Commission has made, but yet the appeal process requires a utility to appeal to the Commission for a resolution. See, Section 2 (d). This procedure would not appear to be very practical. The bill also references a department's decision without indicating what government entity is being identified. See, Section 3 (g).

The bill is unique in allowing a utility to determine how much money it wants to spend on its own or, in the alternative, to contribute to a state fund, known as the energy and conservation fund. See, Section 2 (e) and Section 5. The creation of this state fund will no doubt cause the Corporation Commission to have to increase its staff to institute

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the programs to be implemented, but yet, because the funding is optional, there will be no way to determine how much money is available.

The Corporation Commission may order certain conservation programs to be implemented and does require utilities to file conservation improvement programs every year. These plans will no doubt cause the Commission and utilities to have to hire additional personnel. The odd procedural rule that is included is the timing for filing the plans, which is to be done by an order of the commissioner, but the bill does not indicate which commissioner would have the prerogative to issue the order. See, Section 3 (a).

Under the bill, the Corporation Commission is required to evaluate a utility conservation improvement program on the basis of its cost effectiveness and the reliability of technologies employed. Section 3 (a). But, the bill goes on to say that consumers and sellers are to have free choice over the device or method to be used. The bill does not explain how to resolve a conflict between a consumer's free choice and the cost effectiveness criterion for evaluating a program.

The bill only allows three percent of a utility's funding to go for "program pre-evaluation, testing and monitoring and program audit and evaluation." See, Section 3 (i). This requirement is instituted without any evidence over how much these items will cost a utility to implement. This would appear to be a small percentage, given the authority the bill gives the Commission over the types of conservation investments a utility may make and the ability to require a utility to perform an independent audit of any proposed conservation improvement plan. See, Section 3(b) and (h).

In spite of some of the funding restrictions in the bill, it does allow a utility to recover its expenses resulting from a conservation improvement program. See, Section 4. However, the bill is unclear whether the cost recovery is to be accomplished in a rate case, where the regulatory process can require up to 240 days to complete, or whether the program expenses may be recovered through automatic adjustment or a surcharge. It is safe to say a program of this magnitude will impact a utility's cash flow, especially at start up. Although cost recovery is permitted, the bill suggests that if expenses are incurred that go against the financial incentives of the Corporation Commission, recovery of program expenses may be denied. See, Section 4. The inability to recover program expenses would obviously make the bill's purpose extremely risky.

Finally, the bill appears to require a utility to target conservation improvements in areas where propane and fuel oil are used. See, Section 5 (b). This requirement would then cause a utility and its customers to fund conservation for energy sources not involving the utility. It would be fundamentally unfair for this to happen.

H.B. 2084 would seem to duplicate incentives that are already available under K.S.A. 66-117 (e). Depending on how the language in H.B. 2084 is interpreted, the bill might provide a higher return than is available under existing law for initiating conservation investments. However, the bill does not indicate whether the expenses would be recovered in a rate case or as part of an automatic adjustment mechanism or surcharge. Rate cases usually involve many issues, and it would be difficult to determine whether the incentive rates in the bill would be achieved, if the only basis for recovery were a rate case. Because the term "investment" is somewhat vague, it is also uncertain what 110% and 112% of the investment would turn out to be.

H.B. 2084 also suggests that customers participating in the program would be exempt from the protections of the cold weather rule. Presumably, this would mean that after a conservation device or measure were provided for a particular customer, the customer would be at risk of being terminated from service for nonpayment of a utility bill without regard to the weather. However, the bill is not entirely clear how it would actually affect a particular customer.

Finally, H.B. 2084 does not provide a rationale for the different recovery rates that are included in the bill. This could make the bill vulnerable to legal attack by not treating all customer groups equally, unless a plausible explanation is provided for this disparate treatment.

Thank you for the opportunity to provide this testimony and I'll be available for questions at the appropriate time.

Testimony on HOUSE BILL No. 2048

AN ACT concerning electricity generated from renewable resources or technologies; placing certain requirements on certain state agencies and certain electric service providers; providing penalties for noncompliance.

Richard G. Nelson
2825 Lawrence
Manhattan, KS
Representing the Kansas Energy Council and as a private citizen of Kansas

My testimony today is given in opposition to House Bill 2048. While I certainly applaud the state for being forward looking in the use of renewable energy to help meet a portion of our future energy (electricity) consumption, I believe this bill, in its present form, is misguided.

The bill doesn't elude to development and/or utilization our own renewable resource base for supplying the stated percentages outlined. Development and utilization of Kansas-based renewable resources for alternative energy production, such as electricity, may provide significant energetic benefits, environmental enhancement, and positive macroeconomic effects for Kansas. This fact underlies the need for Kansas to develop a renewable resources "roadmap" or action plan so the state can, in a practical, prudent, and sustainable manner, develop and utilize our own renewable resource base for purposes such as those outlined in this bill. At the same time, a means by which to most effectively utilize our renewable resources provides an opportunity for interested public and private parties make informed decisions concerning alternative energy production for the benefit of all Kansans. Without a plan, Kansas may actually be <u>understating</u> the amount of alternative energy production that may be sustainably, technically, and economically feasible to develop. It is entirely possible this bill may actually be counter-productive with respect to economic development goals Kansas wishes to accomplish.

It is certainly possible Kansas may be able to supply a significant portion of our own electricity as well as other alternative fuels at a lower cost than conventional alternatives over the long term (the next 10-50 years) through dedicated and targeted planning, development, and utilization of our own renewable resources, rather than relying on others to provide renewables-based electricity and/or fuels for us. In addition, development of the Kansas renewable resource base for alternative energy production could have potential ramifications beyond this state in terms of attaining renewable energy and/or environmental/pollution trading credits which could help offset the cost of providing renewables-based energy.

I believe it imperative Kansas should conduct a comprehensive analysis of the total energetic, environmental, and economic benefits associated with the development, implementation, and utilization of the Kansas renewable resources base, not only for electricity production, but for alternative fuels production as well. I would welcome an opportunity to discuss this matter further with members of this committee.

Respectively submitted,

Richard G. Nelson

HOUSE UTILITIES

DATE: 2-9-05

ATTACHMENT 15