

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Vice Chairman Pat Apple at 9:30 A.M. on March 2, 2005 in Room 526-S of the Capitol.

Committee members absent: Senator Janis Lee- excused

Committee staff present: Athena Andaya, Kansas Legislative Research Department  
Raney Gilliland, Kansas Legislative Research Department  
Bruce Kinzie, Revisor of Statutes' Office  
Ann McMorris, Committee Secretary

Conferees appearing before the committee:  
Jim Widener, Kansas Municipal Energy Agency  
Charles Benjamin, Sierra Club  
Bruce Snead, Kansas Energy Council  
Paul Johnson, Kansas Catholic Conference  
Larry Holloway, KCC

Others in attendance: See attached list

Vice Chairman Pat Apple opened the hearing on:

**HB 2047 - Municipal energy agencies; size of board of directors; application of budgeting and cash-basis law; security interests**

Proponents:

Jim Widener, general manager, Kansas Municipal Energy Agency of Overland Park, Kansas, noted that KMEA's prime mission is to assist their members in providing reliable and economical electric power to their community. **HB 2047** addresses some issues that have become outdated and restrictive as the electrical industry has changed. Proposed amendments eliminates residency requirements of board of directors and removes the minimum number of directors requirement. The most critical requested change concerns the cash-basis law which if not made applicable to KMEA, would allow them the option to sign a Reimbursement Agreement and not require a letter-of-credit. Mr. Widener provided support letters from the Kansas Municipal Utilities, South Central Municipal Energy Agency and the Kansas Power Pool. (Attachment 1)

Vice Chairman closed hearing on **HB 2047**.

Chairman Jay Scott Emler opened the hearing on

**HB 2084 - Energy efficiency and conservation programs for certain residential customers**

Proponents:

Charles Benjamin, Sierra Club Kansas Chapter, presented testimony prepared by Bill Griffith, Chairman of Kansas Chapter of the Sierra Club. (Attachment 2)

Bruce Snead, Kansas Energy Council, reviewed their proposed amendments to **HB 2084**. (Attachment 3)

Paul Johnson, Kansas Catholic Council and Public Assistance Coalition of Kansas, testified that **HB 2084** is the first step in encouraging conservation and energy efficiency programs for certain residential and commercial customers. (Attachment 4)

Written testimony was provided by:

Rep. Tom Sloan (Attachment 5)  
Sandy Braden, Kansas City Power & Light (Attachment 6)

CONTINUATION SHEET

MINUTES OF THE Senate Utilities Committee at 9:30 A.M. on March 2, 2005 in Room 526-S of the Capitol.

Hearing on HB 2084 (cont.)

Opponents

Larry Holloway, Chief of Energy Operations, Kansas Corporation Commission, stated that 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. (Attachment 7)

Due to the lack of time, Mr. Holloway was not able to complete his presentation and will return when the bill is rescheduled before the Senate Utilities committee.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 7

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: MARCH 2, 2005

Name	Representing
Jim Widener	Ks Municipal Energy Agency
JOE DICK	KL BPU
Bobbi Mariani	SRS
Paul Johnson	PACK
Ly Philby	KCC
Mark Schreiber	Westar Energy
David Hiltman	KEC
Charles Benjamin	KS Sierra Club
Bruce SNEAD	KS ENERGY COUNCIL
Bob Adrezen	ATMOS ENERGY
Ed Rorden	KFSO
TOM DAY	KCC
Steve Johnson	Kansas Gas Service
Kimberly Lenceer	Aquila
Bruce GRAHAM	KEPCo
Whitney Damron	KS Gas Service



*Testimony Before the*

**Senate Utilities Committee**

March 2, 2005

*Jim Widener  
General Manager  
Kansas Municipal Energy Agency*

**House Bill 2047 – Municipal Energy Agency**

Kansas Municipal Energy Agency (KMEA) was established in 1980 under the authority of enabling legislation 12–885 to 12–8,111 enacted in 1977 and consists of 70 member cities throughout the State.

KMEA is a non-profit organization governed by our member cities -- somewhat like a cooperative for municipalities. KMEA's primary mission is to assist our members in providing reliable and economical electric power to their community. During the last few years and most recently in January our Mutual Aid Program, which has been accepted by FEMA, has assisted cities in service restoration during tornados or ice storm related outages.

House Bill 2047 addresses several issues that over the past twenty-eight years have become outdated and restrictive as the electrical industry has changed.

The proposed revision in K.S.A. 12–891 eliminates residency requirements of board of directors and removes the minimum number of director's requirement. Currently each member city has two board positions available to them with alternates if they choose. While the minimum of seven directors is not a restriction it appears to be an unnecessary requirement.

Historically, most cities required employees to reside in the city limits. However, today many member cities have qualified employees who reside outside the city limits. In some cases the most qualified city employee is precluded from representing their city at KMEA. KMEA believes that establishing the qualifications for the board member in the bylaws would be adequate to protect its member cities.

**Senate Utilities Committee  
March 2, 2005  
Attachment 1-1**



The proposed revision is K.S.A. 12-896 is the most critical requested change. Under the cash-basis law, KMEA cannot issue a letter-of-credit without having unencumbered cash deposited into a commercial bank as security for the bank issuing a letter-of-credit on behalf of KMEA. Although KMEA has no debt, we also do not have a large amount of excess cash on hand as we refund excess revenue to our member cities each year.

In recent years, the regional transmission organization -- the Southwest Power Pool (SPP) -- whom KMEA is securing long term firm transmission have requested a letter-of-credit within a short time span. Under the cash-basis law, KMEA has the choice of either (i) depositing cash with SPP and accepting the credit risk of SPP not being able to repay the money or (ii) depositing unencumbered cash into a commercial bank as security. Our concern is that if SPP requires a large letter-of-credit within 15 days, KMEA and its member cities might not be able to raise adequate funds timely and lose out on a potential beneficial electrical transaction. If the cash-basis law was not applicable to KMEA, we would have the option to sign a Reimbursement Agreement with a commercial bank under which KMEA promises to reimburse the bank for any payments under the letter-of-credit. KMEA could then collect money from its participating member cities in an orderly manner that would not impose such an immediate burden on any member municipality.

The revision to K.S.A. 12-8,104 is a clean-up issue. As written, the section requires that KMEA file under the uniform commercial code to perfect any security interest of a bondholder or trustee in personal property or fixtures. KMEA believes that the bondholder or trustee should be able to determine whether a filing under the uniform commercial code is required for each particular transaction. The requirement should be eliminated.

Passage of this bill has support from the Kansas Municipal Utilities (KMU), South Central Municipal Energy Agency (SCMEA), and the Kansas Power Pool (KPP).

Kansas Municipal Energy Agency (KMEA) recommends passage of House Bill 2047.



## kansas municipal utilities

*Written Testimony Before the*

### **Senate Utilities Committee**

March 2, 2005

*Colin Hansen  
Executive Director  
Kansas Municipal Utilities*

### **House Bill 2047 - Municipal Energy Agencies**

Kansas Municipal Utilities (KMU) is the statewide association that represents the interests of municipal electric, natural gas, water and wastewater utilities. Founded in 1928, KMU's 166 members provide utility services to over one million Kansans.

**KMU strongly supports House Bill 2047.** We believe the legislation would allow municipal energy agencies like the Kansas Municipal Energy Agency (KMEA) to conduct its business of providing low-cost and reliable electricity to Kansas communities in a more efficient and effective manner.

Sweeping changes have occurred in the electric industry over the past decade. One change for many municipal electric utilities has been an increased difficulty in securing firm transmission contracts that might reliably deliver a city's power supply. With the potential move to a Regional Transmission Organization (RTO) environment, we expect the requirements necessary to contract for transmission services to continue to tighten. Many cities look to their municipal energy agency to negotiate and secure these transmission arrangements.

By eliminating the requirement that municipal energy agencies comply with state cash-basis laws, HB 2047 provides municipal energy agencies the flexibility that they need to arrange for the firm transmission service for their members. Other clean-up language in the bill regarding residency requirements for directors and uniform commercial code requirement would also allow municipal energy agencies to operate more efficiently and with the best and most qualified policymakers possible.

We urge the Committee to approve HB 2047.



**KANSAS POWER POOL**  
P.O. Box 646  
Winfield, KS 67156  
(620) 221-5505  
(620) 221-5591, fax

Jim Widener  
General Manager  
Kansas Municipal Energy Agency  
6330 Lamar Avenue, Suite 110  
Overland Park, KS 66202-4247

Re: Legislative changes regarding cash basis law and residency requirements

Dear Jim:

On behalf of the Kansas Power Pool Board of Directors, I am writing to express our support of KMEA's proposed initiative to amend current legislation to relieve the cash basis requirement for municipal energy agencies as well as omit the residency requirements for Directors governing the municipal energy agency.

We appreciate your efforts in this area. If we can be of assistance to you please let us know.

Sincerely,

A handwritten signature in black ink, appearing to read "Colin Whitley".

Colin Whitley  
General Manager, KPP

CW/kw

57  
17/1  
10-27-2005  
1-4

**SOUTH CENTRAL  
MUNICIPAL ENERGY AGENCY**

*Member Cities: Wichita, Derby, El Dorado, Arkansas City, Hutchinson, Andover, Rose Hill, Newton*

January 26, 2005

Jim Widener  
General Manager  
Kansas Municipal Energy Agency  
6330 Lamar Avenue, Suite 110  
Overland Park, KS 66202-4247

Dear Mr. Widener:

This letter is in response to yours of January 5, 2005, concerning the KMEA's intent to propose several changes to the state statutes regarding municipal energy agencies.

The South Central Municipal Energy Agency reviewed these proposed changes at their regular meeting on January 20, 2005.

The South Central Municipal Energy Agency supports your proposed changes to state statutes as presented in the attachment to your letter and as attached herewith.

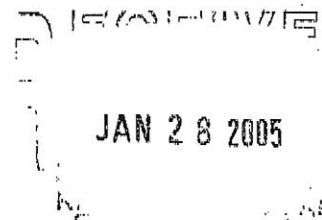
Please feel free to share this letter with members of the Kansas Legislature and your energy agency as appropriate. Let me know if you have any questions on this issue. I can be reached by phone at 316-284-6000 or fax at 316-284-6090 or via email at [jheinicke@newtonkansas.com](mailto:jheinicke@newtonkansas.com).

Please keep me advised of the progress of your request.

Sincerely,

  
Jim Heinicke, President

cc: SCMEA Board Members  
Joseph T. Pajor, Natural Resources Coordinator, City of Wichita, Kansas



## KMEA Member Cities

Alma	Lincoln Center
Altamont	Lindsborg
Anthony	Mankato
Ashland	Marion
Attica	Meade
Augusta	Minneapolis
Baldwin City	Moundridge
Belleville	Mulvane
Beloit	Neodesha
Burlingame	Norton
Burlington	Oakley
Chanute	Oberlin
Chapman	Osage City
Clay Center	Osawatomie
Coffeyville	Osborne
Colby	Ottawa
Ellinwood	Oxford
Erie	Pomona
Eudora	Pratt
Fredonia	Russell
Gardner	St. Francis
Garnett	St. John
Girard	St. Marys
Goodland	Scranton
Greensburg	Seneca
Herington	Sharon Springs
Hill City	Stafford
Hillsboro	Sterling
Hoisington	Stockton
Holton	Troy
Horton	Wamego
Hugoton	Washington
Iola	Waterville
LaCrosse	Wellington
Larned	Winfield

**Testimony before the  
Senate Utilities Committee**

**by  
Bill Griffith  
Sierra Club  
bgriff@lvnworth.com**

**Thank you Mr. Chairman and members of the committee for the opportunity to testify in favor of HB 2084. My name is Bill Griffith and I am chair of the Kansas Chapter of the Sierra Club. I work on energy policy for the Club in our state.**

**Energy efficiency is the hidden "power plant" that we rarely think of. For example, if we save 600 MW of power in the state that is the equivalent of *not* building a power plant of that size. Coal is our main supplier of electricity in the state. However, because of the inefficiencies in burning it, every Btu we save in our home or business saves 3 at the generating facility. Because of our dependence on this source it makes sense to look for savings with efficiency.**

**Another striking fact concerning energy efficiency (EE) is that it is the most inexpensive form of new power. EE programs are generally considered to project at 1.5 to 2 cents per kWh. Wind comes in at 3-4 cents, natural gas varies between 5-7 cents, and a new coal plant is around 7 cents wholesale per kWh.**

**To bring the abstract into the realm of reality, I would note that KCPL is asking for a 20% rate increase to pay for a proposed coal-fired facility they would like to build along the Missouri River. If a proven ee program had been implemented 10 years ago, how much smaller would their rate request be? What if you combined that program with a wind project? It gives one pause to think of the possible savings for consumers. Our present situation in Kansas is much like the mechanic talking about investing in a new air filter. He looks at the camera and says, "The choice is your. You can pay me now, or pay me later." Currently we are being penny wise and pound foolish.**

**Why do we find ourselves in this situation? A good place to search for answers is a study done by the ACEEE entitled "State Scorecard on Utility and Public Benefits Energy Efficiency Programs". If you look at Section 1, "Spending per Capita" you will find that Kansas ranks tied for dead last. Section 2, "Spending as a Percentage of Total Revenues" finds us again tied for last with a "0". Section 3 offers little solace with a ranking of 50th that we share with no other.**

**This study points out how poor of a job our public utilities are doing with their customers in this area. Since they are designed to be a monopoly the consumer cannot change companies and can only accept what is offered. For those serviced by these companies they have decided we don't need anything.**

**We do believe that these public utilities should be allowed to recover their costs and a true partnership exist between them and their customers by the offering of proven ee programs. This will put money in customers pocket, cut air pollution, hold off building new power plants, and boost local economies. We urge you to vote yes on HB 2084.**



**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	<b>United States</b>		<b>\$3.88</b>

**Section 2. Spending as a Percentage of Total Revenues**

<b>State Ranking by Energy Efficiency Program Spending as a Percentage of Annual Total Revenues</b>					
<b>Rank</b>	<b>State/Region</b>	<b>Spending as % of Revenues</b>	<b>Rank</b>	<b>State/Region</b>	<b>Spending as % of Revenues</b>
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%	<b>United States</b>		<b>0.47%</b>

**Section 3. Savings as a Percentage of Total Retail Sales**

<b>State Ranking by Energy Efficiency Annual Program Savings as a Percentage of Total Annual Retail Sales</b>					
<b>Rank</b>	<b>State/Region</b>	<b>Savings as % of Sales</b>	<b>Rank</b>	<b>State/Region</b>	<b>Savings as % of Sales</b>
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%	<b>United States</b>		<b>1.66%</b>

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

**Utilities Committee  
Kansas Senate  
Written Testimony of Bruce Snead  
Kansas Energy Council – Energy Efficiency Representative  
Manhattan, Kansas  
March 2, 2005**

**HB 2084**

Mr. Chair and members of the committee, thank you for the opportunity to speak on behalf of this bill, and while I support the bill, I believe it needs improvement through a proposed amendment. I would like to present background information first, then specifics of the bill and the proposed amendment.

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 investments that return 2 or 3 or more dollars back in economic benefits for every program dollar spent.

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, with key components and actual results 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 contribute any state funds to weatherization. A quick comparison shows the average contribution to weatherization from state's with public benefit 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:

- The Technical, Economic and Achievable Potential for Energy-Efficiency in the U.S. – A Meta-Analysis of Recent Studies, August 2004
- 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, display 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 its need for costly new generation. 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 public benefits funds 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 PBF Funds (millions)	Annual PBF 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](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.

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 (Arizona, Colorado, Nevada, New Mexico, Utah, Wyoming) 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.

The state governments of Idaho, Montana, Oregon and Washington, northwest electric utilities, public benefits fund administrators and the Bonneville Power Administration (BPA) have committed \$100 million over the next five years to continue regional energy efficiency efforts through their partnership with the Northwest Energy Efficiency Alliance. The money will be pooled and used to pay for market-based, energy efficiency programs throughout the region. Since the Alliance began in late 1996, its programs as well as related utility, public benefits, and state efforts have saved the region an estimated 130 average megawatts of electricity through 2003. The cost of the savings is about a penny per kilowatt-hour—one-quarter of the cost of generating electricity from a gas-fired power plant—and was valued at \$57 million in 2003 alone.

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.

A National Best Practices Study just completed for California has produced a comprehensive and comparative understanding of energy efficiency program efforts throughout the United States. It offers a database of energy efficiency (EE) best practices that can be used as a resource to enhance the design, implementation, and management of energy efficiency programs for Kansas.

States have several core decisions to make when designing their efficiency funding programs. First, what are the goals for the programs. Second, who will conduct and evaluate the programs. Third, how will performance be measured and evaluated. Fourth, what is a suitable time frame for the programs to start and achieve results, and fifth, what funding amounts should be invested from what sources.

Kansas can take advantage of the wealth of existing information and exemplary program evaluations to move quickly. This legislation, if we enhance it with the proposed amendment, 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, if amended, enables two paths to accomplish this. One through utilities based programs which must be approved by the KCC, and another through programs proposed for the utilities by the KCC. Both will have oversight by the KCC. I am ready to work with all parties in this effort.

What does the current version of the legislation do?

- Enables each public utility to invest in KCC approved energy efficiency and conservation programs and receive at least a rate of return that is currently approved.
- Enables each public utility with KCC approved energy efficiency and conservation programs to gain a return on investment based on their currently approved rate of return for programs that reduce uncollectible bills of residential customers through prepaid energy cards or similar programs.
- Enables the KCC to authorize recovery of 110% of any investments by such utility in energy efficiency and conservation programs for commercial customers who have an energy audit and are current in payment of their utility bills. ***I recommend we amend this to be consistent with the first section relative to rate of return and KCC approval.***

What does the amendment do?

- Adds three definitions to remove ambiguity and define what constitutes an energy audit and energy conservation improvement. This will improve the quality of what is proposed based on energy audits by the utility or its customers.

- Requires KCC approval for commercial energy efficiency programs and sets the rate of return to be the utility's currently approved rate of return. This would be consistent with the rest of the current bill and consistent for the KCC.
- Enables the KCC to establish a list of potential utility energy efficiency and conservation programs based on stakeholders input and existing research and information.
- Enables the KCC to propose specific utility investments in energy efficiency and conservation programs, potentially setting rates, prices and terms for the programs.
- Enables the KCC to require utilities to conduct energy efficiency and conservation programs if the KCC finds that the investment or improvement will result in energy savings at a total cost less than the utility's cost to produce or purchase an equal amount of new energy supply.
- Enables the KCC to change the programs to promote efficient and effective programs.
- Enables the KCC to contract for program review and evaluation services.
- Directs the KCC to consider factors of time, cost effectiveness, reliability, low income customer impacts, and audits of program performance in evaluation and approval of programs.

I believe this amendment is essential given the performance of the utilities I have described in my testimony. We need to enable the KCC to propose programs, because the utilities may not propose anything. We need to provide some guidance to the KCC in their approval process to enable effective programs to be established based on sound information and experience. We need to authorize the KCC to establish efficiency and conservation programs if and when it can be demonstrated that it would be cheaper than the corresponding costs to obtain supply side energy resources. And, this amendment will clarify legislative intent for the KCC in this arena. I believe this amendment would also be consistent with current KCC staff recommendations regarding low-income assistance rates issues and the possibilities for energy conservation programs to address needs of those groups. Thank you again for the opportunity to testify and I am ready to answer questions.

Member – Kansas Energy Council – Energy Efficiency representative

Bruce Snead

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**Proposed amendment to HB 2084 - March 2, 2005**

Bruce Snead – Energy Efficiency Representative – Kansas Energy Council

This uses the current version of the bill as Section 2 with edits in 2(c), adds new sections 1, 3, 4, and then ends with renaming Section 2 of the current version to Section 5

(EXISTING )

AN ACT concerning certain public utilities; relating to energy efficiency and conservation programs for certain customers; providing for recovery of certain amounts therefor.

*Be it enacted by the Legislature of the State of Kansas:*

(ADD NEW SECTION 1)

Section 1. As used in this act:

- (a) “Commission” means the Kansas corporation commission.
- (b) “Energy audit” means an unbiased study, rating or indication of a building, facility or system’s relative energy efficiency based on consistent inspection procedures, operating assumptions, climate data and calculation methods, used for the purpose of identifying energy conservation opportunities and costs.
- (c) “Energy conservation improvement” means a project that results in energy conservation.

(EXISTING SECTION 1 RENAMED TO 2 WITH EDITS IN 2 (c))

Section 2.

(a) **The For energy efficiency and conservation programs receiving prior approval of the commission, the** state corporation commission shall authorize any electric public utility or natural gas public utility to recover ~~112% of any the utility’s authorized rate of return on~~ investments by such utility in energy efficiency and conservation programs for residential customers who have an energy audit and are current in the payment of their utility bills or payments under their utility bill payment plan.

(b) **The For energy efficiency and conservation programs receiving prior approval of the commission, the** commission shall authorize any electric public utility or natural gas public utility to recover ~~112% of any the utility’s authorized rate of return on~~ investments by such utility in programs to reduce uncollectible bills of residential customers of the utility through prepaid energy cards or similar programs that place responsibility for wise use of energy on customers at high risk of having uncollectible bills. Before the commission authorizes the recovery, the utility shall be required to submit to and obtain approval by the commission of the utility’s policies for identifying such high-risk customers. Such policies shall take into account the customer’s previous failures to meet terms of payment plan agreements, landlord preferences

and such other factors as agreed to by the utility and the commission. The cold weather rule adopted by the commission in docket 158-796-U shall not apply to customers participating in programs instituted pursuant to this subsection. ~~a customer participating in a program instituted pursuant to this subsection if such customer has failed at least three times to fulfill agreements with the utility and the utility has notified such customer of the risk of losing utility service. The utility shall provide the state corporation commission with a list of such customers.~~

(ADD NEW EDITS TO 2 (c))

**(c) For energy efficiency and conservation programs receiving prior approval of the commission, the** ~~The state corporation~~ commission shall authorize any electric public utility or natural gas public utility to recover **the utility's authorized rate of return on** ~~110% of any~~ investments by such utility in energy efficiency and conservation programs for commercial customers who have an energy audit and are current in payment of their utility bills.

(ADD NEW SECTIONS)

Section 3. (a) The commission may, by order, establish a list of programs that may be offered as energy efficiency and conservation programs by any electric public utility or natural gas public utility. In establishing the programs, the commission shall consult political subdivisions and nonprofit and community organizations, especially organizations such as CURB and those engaged in providing energy and weatherization assistance to low-income persons, and review existing studies of exemplary energy efficiency and conservation programs conducted by other states, utilities and energy related organizations.

(b) The commission may propose an electric or natural gas public utility make investments and expenditures in energy efficiency and conservation programs, explicitly setting forth the interest rates, prices and terms under which the improvements must be offered to customers

(c) The commission may require a utility to conduct an energy efficiency and conservation program, investment or expenditure whenever the commission finds that the energy conservation improvements in the program will result in energy savings at a total cost to the utility less than the cost to the utility to produce or purchase an equivalent amount of new supply of energy.

(d) The commission may, by order, change this list to add or subtract programs as the commission determines is necessary to promote efficient and effective conservation programs.

(e) The commission may contract with any entity to review and evaluate public utility and commission proposed programs.



Section 4 (a) In the process of evaluation and approval of proposed energy efficiency and conservation programs, the commission shall consider:

- (1) The proposed time period for the program and how that addresses initiation, promotion, implementation and evaluation of program effectiveness.
- (2) The cost-effectiveness and the reliability of technologies employed.
- (3) The percentage of proposed program expenditures that is devoted to residential programs that directly address the needs of renters and low-income persons.
- (4) The mechanism or process for an independent audit of the utility's programs and expenditures performed by an auditor approved by the commission and chosen by the utility. The audit 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 program expenditures.

(EXISTING SECTION 2 RENAMED TO SECTION 5)

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

**SENATE UTILITIES COMMITTEE  
MARCH 2, 2005  
TESTIMONY BY PAUL JOHNSON  
HOUSE BILL 2084**

Thank you for this opportunity to appear before the Senate Utilities Committee in support of House Bill 2084. My name is Paul Johnson and I am testifying for the Kansas Catholic Conference and the Public Assistance Coalition of Kansas.

House Bill 2084 is a first step in encouraging conservation and energy efficiency programs for certain residential and commercial customers. There are safeguards in place given the prior approval by the Kansas Corporation Commission and that customers must have an energy audit plus be current with their utility payments.

HB 2084 should be the start to the broader discussion of the higher utility costs faced by thousands of Kansas households and the impact that is having on the total cost of housing. According to the 2000 United States Census, Kansas has 1,043,808 households with 320,623 (32%) being renters and 723,185 (68%) being homeowners. Households that spend over 30% of their income for housing (includes utilities) are considered 'cost burdened'. 128,783 households that rent (40% of total renters) pay over 30% while 17% of the 723,185 homeowners are cost burdened. This data was collected in 1999 when natural gas prices were much lower than they are today so the number of cost burdened households must be higher. One half of Kansas' homes were built prior to 1960. The KCC has opened a docket to investigate low-income electric and natural gas rates that may be tied to energy conservation programs.

I have monitored the energy assistance and weatherization debate in Kansas for twenty years. The formula has not changed. Federal energy utility assistance is 3 to 4 times greater than our federal weatherization program. There are no state dollars involved as you have heard from other participants. This winter the Low Income Home Energy Assistance Program (LIHEAP) will assist around 65,000 households with a payment of \$200. (There are roughly 150,000 households eligible. In 2003 the payment was \$359 with 38,346 households served.) The weatherization program on the other hand serves just 1400 homes a year with a total budget of \$4.797 million. For non-metro areas served by the Kansas Housing Resources Corporation, \$400,000 is allocated for emergency repairs before weatherization begins and \$2 million for homeowner rehabilitation. One of the greatest policy challenges is the dilemma of many renters having to pay the utility bills but not having control over the efficiency of the furnace or insulation in the house.

The cold weather portion of this legislation was removed on the House floor and that was the right amendment. I hope that the Senate Utilities Committee will

hold special informational hearings on the Cold Weather Rule next session. Let's document how many households were shut-off from electric or natural gas service this summer or fall? How many of these households are rentals versus owner-occupied? How many of these units have been disconnected from service more than once in the last five years? Can we track shut-offs by zip code? Since we track utility accounts by person and not place, are we watching different families being disconnected when they move into that same dwelling? Can we discern what is renter misuse of energy versus landlord indifference when the tenant pays the utility bills? Are dwellings that use 2-3 times the normal energy amount singled out by the utilities billing department for special attention? When natural gas service is reconnected, can the efficiency of the furnace be checked as well as the safety? Do the municipal utilities in Kansas have different strategies for handling utility shut-offs and energy conservation opportunities? What would be the economic impact if say 20% of the wasted natural gas cost was cycled through local economies via insulation and home furnace purchases?

With the work being done by CURB and the staff at the KCC on these issues surrounding 'lifeline' rates and related conservation programs over the summer, a hearing next session could set the table for more creative proposals. If legislation passes allowing KDFA to finance energy projects, could that be a source of funds for these residential/commercial conservation investments? Could the State Housing Trust Fund be a source for more targeted repair loans? Could the non-profits such as Salvation Army and Catholic Charities direct a portion of their utility assistance funds towards longer-term energy repairs? This is a public debate that is truly needed in Kansas.

Thank you for this opportunity to present these concerns, questions and ideas.

PRESENTED BY  
Tom SLOAN

Testimony on HB 2084  
March 1, 2005  
Senate 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 recycling 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 desirable 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 their investments in energy conservation programs for their residential customers and commercial customers and have the opportunity to earn their authorized rate of return on those investments.

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.

The House Committee amended the rate of return earnings potential for utility company investments on behalf of their residential and commercial customers. However, we neglected to make a similar change in the section addressing industrial customers. On behalf of the House Utilities Committee, I suggest that the rate-of-return language should be consistent throughout the bill.

**Senate Utilities Committee  
March 2, 2005  
Attachment 5-1**

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 on House HB2084 before the  
Senate Utilities Committee on Wednesday, March 2, 2005**

**Presented by Sandy Braden, Gaches, Braden, Barbee and Associates  
on behalf of Kansas City Power & Light**

Chairman Emler and Members of the Committee:

My name is Sandy Braden, of Gaches, Braden, Barbee and Associates. I am representing Great Plains/Kansas City Power and Light. Kansas City Power and Light provides electricity to over 490,000 customers in 24 counties in the Kansas City metropolitan area.

KCPL 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.

KCPL also believes that the KCC already has the authority to set rates allowing for recovery of prudently incurred costs as well as allowing for a return on investment in an increment above the rate of return as indicated in 66-117(e). 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. Thus, KCPL wants to ensure that this act does not preclude the state corporation commission and the utility from entering into mutually agreeable alternative agreements for recovery of the expenses of these programs.

KCPL supports energy efficiency and conservation programs as part of a comprehensive overall resource plan. KCPL has been working with numerous 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 approach-collaboration with the appropriate stakeholders--is the best way to consider the future energy needs of this state.

Thank you for your time and I would be glad to answer any questions from the Committee. I also have included a suggested amendment for your consideration.

Presented by Sandra Braden  
Gaches, Braden, Barbee and Associates  
825 S. Kansas Suite 500  
Topeka, Kansas 66612

785-233-4512



**Proposed Amendments**

**To House Bill No. 2084**

On page 1, Section 1, line 22, include "and commercial" following residential;

On page 2, Section 1, line 3, (c), strike all of lines 3 through 7, inclusive; and insert "This act shall not preclude the commission and the public utility from entering into mutually agreed upon alternative agreements for recovery of the expenses set out herein."

# KANSAS

CORPORATION COMMISSION

KATHLEEN SEBELIUS, GOVERNOR  
BRIAN J. MOLINE, CHAIR  
ROBERT E. KREHBIEL, COMMISSIONER  
MICHAEL C. MOFFET, COMMISSIONER

**BEFORE THE SENATE UTILITIES COMMITTEE  
PRESENTATION OF THE  
KANSAS CORPORATION COMMISSION  
March 2, 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 that benefit individual commercial customers from all of the utility's ratepayers. Additionally, this bill requires the Commission to allow an electric and natural gas utility to recover certain energy efficiency and conservation investments that benefit individual residential customers from all of their utility 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, requiring only an energy audit to justify a regulated utility's energy efficiency or conservation investment can cause all of the utility's ratepayers to subsidize an investment that only benefits an individual ratepayer.

Section 1(c) of this bill requires the Commission to allow 110% recovery of certain electric and natural gas utility investments for commercial customers. This is a fundamental violation of good utility ratemaking policy. 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.

Obviously the intent of this legislation is not to entice electric or natural gas utilities to make investments that their commercial customers would already make for themselves; nonetheless this could be the outcome of such increased return on investment. Suppose, for example, that a commercial customer had an energy audit and found that it would save money by investing in new heating and air conditioning equipment. Later the commercial customer finds out that the utility is also interested in such investments. The customer contacts the utility; the utility pays the customer for his investment, marks up the investment by 110% and passes the cost through to all of the utility's ratepayers. The investment already made sense for the Commercial customer, and would have been made without the incentive, nonetheless all of the utility's customers ended up paying for the investment. Just as public policy should not provide a tax credit for more than 100% of an investment, or for an investment that already made sense and would have been made anyway, no regulatory policy should allow recovery of more than the initial investment. Such a policy would cause unneeded investments or provide an unnecessary incentive for investments that would have been made anyway.

In addition to such unintended consequences, the bill's *intended* policy goal -- increasing energy conservation and efficiency -- is already well served in current law. 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)

The proposed legislation allows the Commission no discretion in evaluating the reasonableness of any investments made in energy efficiency or conservation for residential or commercial customers. It only requires 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 utility's 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 commercial 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 \$5,500, even though no other customer benefited from the investment, the investment had a real cost of only \$5,000, and even though the commercial customer who received the new heating and air conditioner system only saves \$3 a year on his utility bill.

The incentive in section 1 (c) for commercial customers 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(a) of this bill has been amended to remove an increased return on investment for residential customers. However, not only does the Commission still have concerns regarding this section of the bill, the Commission believes that this bill actually could unintentionally remove some incentives that exist currently.

This section of the bill, like section 1(c), requires that the Commission allow recovery from all utility ratepayers of any investment the utility makes that has been identified by an energy audit. As in the previous example, this would require the Commission to make all ratepayers pay for investments that might have very little benefit for specific utility customers. There are many appropriate tests for determining the economic benefits of utility funded energy efficiency and conservation programs, however an energy audit is not one of them. For example, some states, such as Vermont, have required utility ratepayers to fund conservation investments that save energy and also provide societal benefits, such as reductions in greenhouse gas emissions or other forms of pollution, by assigning a societal "cost" to these emissions. In this type of calculation, the concept is that society receives some quantifiable benefit, and this is used to justify the cost to ratepayers for the investment. On the other end of the spectrum, most state utility commissions use a "ratepayer impact test" to justify energy efficiency and conservation investments. Simply put, this test verifies that the utility's investment provides a net benefit through lower rates to all customers. An example in this type of investment may be such things as controllers that cycle air conditioners and keep the utility company from building additional power plants. The Commission knows of no state that has taken the position that all customers should bear the costs of energy efficiency or conservation investments solely because they are identified in an individual customer's energy audit.

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The Commission is also concerned that the amended language in section 1(a) of the bill may have the unintended consequence of removing the Commission's current authority under K.S.A. 66-117(e) (discussed above) to allow an electric or natural gas utility to recover ½ to 2% above the utility's authorized rate of return for reasonable investments in energy efficiency or conservation. While it is unlikely that this was the intent of the amended language, the fact that this statute would be enacted after the existing language in K.S.A. 66-117(e) could be used to argue that the Commission would no longer be allowed to grant the existing incentive for the types of investments envisioned by section 1(a), or 1(b) of this bill.

While section 1(b) of the bill is somewhat unique, and at least does not have the concerns of socializing investments identified by and energy audit to all utility customers, the Commission believes it is unnecessary. While several electric utilities experimented with token operated prepaid programs in the 1980s and early 1990s, no utility currently has such a program or has proposed such a program. Additionally, the Commission already has broad authority to approve any similar type of program should an electric or natural gas utility request it.

In conclusion, even as amended, the Commission believes this bill is unnecessary, potentially raises rates of all ratepayers, and may remove existing incentives for investments in energy efficiency and conservation.

For a discussion of established state demand side management programs see: Who Should Deliver Ratepayer Funded Energy Efficiency; A Survey and Discussion Paper, pub. 2003 by the Regulatory Assistance Project, at:

<http://www.raponline.org/Pubs/RatePayerFundedEE/RatePayerFundedEEFull.pdf>

For a discussion of state policy options for energy efficiency see:

[http://www.eere.energy.gov/state\\_energy/policy\\_options.cfm](http://www.eere.energy.gov/state_energy/policy_options.cfm)

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