

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Scott Emler at 9:30 A.M. on March 7, 2005 in Room 526-S of the Capitol.

Committee members absent:

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

Conferees appearing before the committee:

Larry Holloway, KCC
David Springe, CURB
Steve Johnson, Kansas Gas Service
David Wilson, AARP

Others in attendance: See attached list

Chair continued hearing on

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

Opponents:

Larry Holloway of Kansas Corporation Commission, had started his testimony at the March 3, 2005 meeting but due to lack of time, his appearance was continued today. Mr. Holloway explained the amendments in a proposed substitute bill for **HB 2084** from Bruce Snead, Kansas Energy Council and the KCC. He noted this amendment incorporates comments and suggested amendments from testimony by CURB, Kansas Gas Service and Kansas City Power & Light given before the committee. A comparison of **HB 2084**, as amended, and the substitute proposed by Bruce Snead and the KCC was also provided. (Attachment 1)

David Springe, consumer counsel, Citizens' Utility Ratepayer Board, voiced his opposition to the bill because (1) this law is simply unnecessary since the KCC has the authority currently to accomplish everything set forth in the bill; (2) CURB does support the KCC opening a docket to evaluate conservation and efficiency programs; and (3) this bill as written, may have unintended consequence of limiting the availability of programs to consumers, and limiting the utility's ability to seek cost recovery. (Attachment 2)

Steve Johnson, Kansas Gas Service, noted their opposition to the bill but they are not opposed to the concept of energy evaluation and conservation. (Attachment 3)

Neutrals

David Wilson of AARP continues to support the Kansas Cold Weather Rule as an important protection to many older Kansans in our state. (Attachment 4)

Written testimony was provided by Kansas Department of Social and Rehabilitation Services. (Attachment 5)

Chairman closed the hearing on **HB 2084**.

The Chair opened for discussion and possible action on:

HB 2042 - Promotions by local exchange carriers within an exchange or group of exchanges, conditions.

Moved by Senator Taddiken, seconded by Senator Reitz, **HB 2042** be passed out favorably. Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Utilities Committee at 9:30 A.M. on March 7, 2005 in Room 526-S of the Capitol.

Approval of Minutes

Moved by Senator Reitz, seconded by Senator Pyle, the minutes of the meetings of the Senate Utilities Committee held on March 2, 2005 and March 3, 2005, be approved. Motion carried.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 5

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: MARCH 7, 2005

Name	Representing
Paul Johnson	PACK
Dave Hotkaas	KEC
Larry Hallaway	KCC
Shirley Allen	Allen Consulting
Joe Dick	KCBPU
MARK COATES	KABVI
Anne Spiess	KIA
Andy Shan	altel
HARRY BERG	MIDWEST ENERGY
STEVE JOHNSON	KANSAS GAS SERVICE
Bruce GRAHAM	KEPCO
Sandy Braden	Great Plains Energy
Kimberly Lencus	Aquila
Ken's Agency	SRS
D. S. Koch	SBC

Proposed Substitute bill for HB 2084 - March 3, 2005

Bruce Snead – Energy Efficiency Representative – Kansas Energy Council & the Kansas Corporation Commission.

This amendment incorporates comments and suggested amendments from testimony by CURB, KGS and KCPL given to this point.

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

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

Section 1. As used in this act:

(a) “Commission” means the state corporation commission.

(b) “Energy conservation improvement” means a project that results in energy conservation.

Sec. 2.

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 prudent and reasonable investments by such utility in energy efficiency and conservation programs for customers who are, at the time of the investment, current in the payment of their utility bills or payments under their utility bill payment plan, provided these investments are made as part of energy efficiency and conservation programs that have received prior approval of the commission.

Sec. 3. (a) The commission may, by order, establish a list of programs, and from time to time change and or subtract from said 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 the Citizens Utility Ratepayer Board 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, regulatory agencies, 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 terms under which the improvements must be offered to customers.

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(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 contract with any qualified entity to review, evaluate or manage public utility and commission proposed energy efficiency and conservation programs.

Sec. 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 devoted to residential programs that directly address the energy efficiency and conservation of residential rental property, and low-income persons.
- (4) The mechanism or process for an independent audit of the utility's energy efficiency and conservation programs, investments, expenditures, and related energy savings.
- (5) Other relevant factors or criteria.

Sec. 5 This act shall not preclude the commission and the public utility from entering into energy efficiency and conservation agreements not undertaken pursuant to this act nor preclude the commission from exercising its authority pursuant to KSA 66-117(e).

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Comparison of HB 2084, as amended, and the substitute proposed by Bruce Snead and the KCC. [March 4, 2005]

[Note: double strikeout indicates portions removed by substitute. Bold, italics and underline indicate substitute additions. Remaining bold and single strikeouts indicate original amendments made in the House.]

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:

Section 1. As used in this act:

(a) "Commission" means the state corporation commission.

(b) "Energy conservation improvement" means a project that results in energy conservation

~~Section 1. (a) The For energy efficiency and conservation programs receiving prior approval of the commission, § 2. The~~ state corporation commission shall authorize any electric public utility or natural gas public utility to recover ~~112%~~ **112%** of any ~~the utility's~~ **the utility's authorized rate of return on prudent and reasonable** investments by such utility in energy efficiency and conservation programs for ~~residential~~ customers who ~~have an energy audit and are,~~ **at the time of the investment,** current in the payment of their utility bills or payments under their utility bill payment plan, **provided these investments are made as part of energy efficiency and conservation programs that have received prior approval of the commission.**

~~(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.**

~~(c) The state corporation commission shall authorize any electric public utility or natural gas public utility to recover 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.~~

Sec. 3. (a) The commission may, by order, establish a list of programs, and from time to time change and or subtract from said 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 the Citizen's Utility Ratepayer Board 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, regulatory agencies, 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 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 contract with any qualified entity to review, evaluate or manage public utility and commission proposed energy efficiency and conservation programs.

Sec. 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 devoted to residential programs that directly address the energy efficiency and conservation of residential rental property, and low-income persons.

(4) The mechanism or process for an independent audit of the utility's energy efficiency and conservation programs, investments, expenditures, and related energy savings.

(5) Other relevant factors or criteria.

Sec. 5 This act shall not preclude the commission and the public utility from entering into energy efficiency and conservation agreements not undertaken pursuant to this act nor preclude the commission from exercising its authority pursuant to KSA 66-117(e).

Sec. 26. This act shall take effect and be in force from and after its publication in the statute book.

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	 State of Kansas <i>Kathleen Sebelius, Governor</i>	1500 S.W. Arrowhead Road Topeka, Kansas 66604-4027 Phone: (785) 271-3200 Fax: (785) 271-3116 http://curb.kcc.state.ks.us/

SENATE UTILITIES COMMITTEE
H.B. 2084 (as amended)

Testimony on Behalf of the Citizens' Utility Ratepayer Board
 By David Springe, Consumer Counsel
 March 2, 2005

Chairman Emler and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2084. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

CURB is opposed to this bill because this law is simply unnecessary. The Kansas Corporation Commission has the authority currently to accomplish everything set forth in this bill. CURB supports the concept that a utility with an approved energy efficiency and conservation program receive the "utility's authorized rate of return" on those conservation investments. Since the Kansas Corporation Commission sets the utility's "authorized rate of return" in every rate case, and applies that rate of return to the utility's investments, this bill adds nothing to the existing authority of the Commission. This same concept applies to the type of program contemplated in section 1(b) of the bill related to reducing uncollectible bills. This bill is essentially a restatement of existing practice and authority at the Commission.

CURB does support the Kansas Corporation Commission opening a docket to evaluate conservation and efficiency programs. However, there is a broad range of issues the need to be debated and decided when evaluating whether any particular energy efficiency or conservation program should be implemented. These broad issues should be left to the Commission.

If this bill is passed as written, it may have the unintended consequence of limiting the availability of programs to consumers, and limiting the utility's ability to seek cost recovery. The language in lines 22-24 restricts the utility's recovery to only those instances where residential customers have had an "energy efficiency audit and are current on their bills." While the intent here is good, that being to encourage energy audits and not provide programs to customers that aren't current on their bills, the language may in fact hinder a utility's ability to roll out a program to a broad base of customers, and seek recovery of program costs. For example, if an electric utility wanted to provide compact florescent light bulbs to its customers as part of one of these programs, it would be unreasonably restrictive and cost prohibitive to require an energy audit before a customer could receive a \$4.00 light bulb. Again, the proper venue for dealing with these issues is the Kansas Corporation Commission, and not through

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prescriptive legislation.

If the bill does go forward however, CURB recommends that the language be amended as follows:

- Delete “have an energy audit and” at line 22. This leaves the requirement that customers be current on their bills, but eliminates the energy audit as a requirement.
- Delete section 1(c) in its entirety. Amend section 1(a) to include “and commercial” at line 22...so that residential and commercial customers are cover in a single section.

CURB respectfully requests that the Committee not pass this bill. If the intent of the bill is to encourage the Kansas Corporation Commission to investigate the implementation of energy efficiency and conservation programs, CURB supports that intent. However, this bill at best simply restates the Commission’s existing authority, and at worst limits the Commission’s flexibility to create these types of programs and provide utility cost recovery. The bill is unnecessary and adds nothing to the existing law.



KANSAS GAS SERVICE

A DIVISION OF ONEOK

HOUSE BILL NO. 2084

Testimony of Steve Johnson
501 SW Gage Blvd., Topeka, Kansas 66606
On Behalf of Kansas Gas Service
March 2, 2005

My name is Steve Johnson. I am the Manager of Government Affairs for Kansas Gas Service. I appear as an opponent of H.B. 2084.

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% of the investment would turn out to be.

H.B. 2084 also seems to be superfluous because it only applies to commercial customers for conservation measures employed on their behalf. This type of incentive has been available for several years under previous legislation and has not been invoked in any rate case or filing before the commission.

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.

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March 1, 2005

Senator Emler, Chair
House Utilities Committee
HB 2084

Good morning Chairman Emler and members of the Senate Utilities Committee. I appreciate the chance to appear today and to make a brief statement on House Bill 2084 as amended by the House of Committee of the Whole.

My name is David Wilson and I am an Executive Council Member of AARP Kansas, which represents the views of our more than 350,000 members in the state of Kansas.

First of all we recognize that the bill's subject is a worthy one -- energy efficiency and conservation should be practiced by all. AARP Kansas supports these practices. We also continue to support the Kansas Cold Weather Rule as an important protection to many older Kansans in our state

The Kansas Corporation established the Cold Weather Rule in 1983 to insure that Kansans have residential electric and gas services they need during the winter. The rule has served the state of Kansas well for approximately 20 years.

AARP maintains that any changes to the Cold Weather Rule could have significant implications for residential consumers in Kansas. The ability to have heat during the winter is an absolute necessity for older and low income consumers.

We applaud the removal of language by the House of Representatives that would have made changes to the Cold Weather Rule that could have jeopardized the health and safety of many low income Kansans.

In conclusion, we respectfully request that this committee continue its practice to protect human health and safety and reject any proposed amendments to HB 8024 as amended by the House Committee of the Whole that would change the current Cold Weather Rule. Thank you for your consideration of our request.

Respectfully
David Wilson

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Kansas Department of

Social and Rehabilitation Services

Gary Daniels, Acting Secretary

Senate Utilities Committee

March 2, 2005

**HB 2084 - Energy Efficiency and Conservation
Programs**

Integrated Service Delivery Division

Candace Shively, Deputy Secretary

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**Kansas Department of Social and Rehabilitation Services
Gary Daniels, Acting Secretary**

Senate Utilities Committee
March 2, 2005

H. B. 2084- Energy Efficiency and Conservation Programs

Senator Emler and members of the Committee, thank you for the opportunity to submit written comments on HB 2084. This legislation proposes the use of prepaid energy cards or similar programs for consumers at high risk of having uncollectible bills. The Department was concerned about the impact of these changes on low-income Kansans as the original bill removed the protection of the Cold Weather Rule. The bill, as amended by the House reinstated this protection. As such, the Department has no further comments or concerns regarding the bill.