Approved: March 2, 2006
Date

MINUTES OF THE HOUSE UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on January 24, 2006 in Room 231-N of the Capitol.

All members were present.

Committee staff present:
Mary Galligan, Kansas Legislative Research
Dennis Hodgins, Kansas Legislative Research
Mary Torrence, Revisor's Office
Heather Klaasen, Research Intern
Renae Hansen, Committee Secretary

Conferees appearing before the committee:
Representative Tom Sloan
Charles Benjamin, Sierra Club
Dave Springe, CURB
Don Low, KCC
Larry Holloway, KCC

Others attending:
See attached list.

Chairman Carl Holmes gave committee members information (Attachment 1), on the Oil Sands of Alberta Canada.

Hearing on:

HB 2588 **Regulation of electric utilities to support generation and transmission facilities having lowest cost over life of facilities.**

Proponents:

Representative Tom Sloan, (Attachment 2), presented testimony in favor of **HB 2588** as it seeks to codify as a requirement what the KCC and CURB can currently do.

Charles Benjamin, Ph. D., J. D., Sierra Club, (Attachment 3), offered testimony in favor of **HB 2588** as it would allow the KCC to consider technologies which provide long-term economic, social and other benefits, including environmental benefits.

Opponents:

Dave Springe, CURB, (Attachment 4), offered testimony in opposition to **HB 2588**, with specific concern to the particular sections 2 and 3.

Neutral:

Don Low, KCC, (Attachment 5), offered a neutral testimony to the bill, with some questions about the wording, "shall support".

Questions were asked by Representatives: Carl Krehbiel, Tom Sloan, Margaret Long, Forrest Knox, Melody Miller, Josh Svaty, and Peggy Mast.

Hearing Closed on: **HB 2588.**

MINUTES OF THE House Utilities Committee at 9:00 A.M. on January 24, 2006 in Room 231-N of the Capitol.

Hearing on:

HB 2589 **Requirements for state agency use of electricity generated from renewable resources; treatment of certain public utility revenues from wholesale off-system sales.**

Proponent:

Representative Tom Sloan, (Attachment 6), presented testimony in support of **HB 2589** stating it has two separate approaches to encouraging the development of jobs in Kansas.

Opponents:

Dave Springe, CURB,(Attachment 7), presented testimony stating different areas of the bill that CURB is opposed to. Specifically they are opposed to the language in section 2.

Larry Holloway, KCC, (Attachment 8), presented testimony in opposition to **HB 2589** and gave specific examples of how this legislation would not work as intended.

Charles Benjamin, Sierra Club,(Attachment 9), presented opposition to the specifics in **HB 2589** with a word of encouragement and support for the goal of requiring state agencies to increase the amount of energy they consume from renewable energy resources and technologies.

Questions were asked by Representatives: Annie Kuether, Peggy Mast, Oletha Faust-Goudeau, Carl Krehbiel, and Lynne Oharah.

Hearing closed on **HB 2589.**

Hearing on:

HR 6005 **Southwest Power Pool urged to recognize reliability component and value of economic transmission projects.**

Proponents:

Representative Tom Sloan, (Attachment 10), offered an explanation of HR 6005 which recognizes the system reliability value of economic projects by essentially using the same cost-recovery formula as for base projects. Base projects are those necessary for the continued reliable operation of the inter-connected transmission system.

Questions were asked by Representative Lynne Ohara.

Hearing closed on **HR 6005.**

The next meeting is scheduled for January 25, 2006.

Meeting Adjourned.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: January 24, 2006

NAME	REPRESENTING
Whitney Damron	KS Gas Service / Empire
Joe Dick	KCBPU
Phil Wages	KEPCo
Steve Miller	Sunflower
Kimberly Svaty	Aquila
Larry Berg	Midwest Energy
Mark Schreiber	Westar
Lindsey Douglas	Hein Law Firm
Charles Benjamin	KS Sierra Club
Martha McDaniel	Melody Miller's Intern
Tom Day	KCC
Don Low	KCC
Larry Holloway	KCC
Dan Springe	Curb
Mark Bozanyak	Capitol Strategies
Terry Holdren	Kansas Farm Bureau
Gina Bowman-Morrill	Coffeyville Resources
Roger Randall	Kansas City Power & Light Co.

The Oil Sands Of Alberta

There's an oil boom going on right now. Not in Saudi Arabia or Kuwait or any of those places, but 600 miles north of Montana.

In Alberta, Canada, in a town called Fort McMurray where, this time of year, the temperature sometimes zooms up to zero.

The oilmen up there aren't digging holes in the sand and hoping for a spout. They're digging up dirt — dirt that is saturated with oil. They're called oil sands, and if you've never heard of them then you're in for a big surprise because the reserves are so vast in the province of Alberta that they will help solve America's energy needs for the next century.

Within a few years, the oil sands are likely to become more important to the United States than all the oil that comes to us from Saudi Arabia.

Twenty-four hours a day, 365 days a year, vehicles that look like prehistoric beasts move across an arctic wasteland, extracting the oil sands. There is so much to scoop, so much money to be made.

There are 175 billion barrels of proven oil reserves here. That's second to Saudi Arabia's 260 billion but it's only what companies can get with today's technology. The estimate of how many more barrels of oil are buried deeper underground is staggering.

"We know there's much, much more there. The total estimates could be two trillion or even higher," says Clive Mather, Shell's Canada chief. "This is a very, very big resource."

Very big? That's eight times the amount of reserves in Saudi Arabia. The oil sands are buried under forests in Alberta that are the size of Florida. The oil here doesn't come gushing out of the sand the way it does in the Middle East. The oil is in the sand. It has to be dug up and processed.

Rick George, the Colorado-born CEO of Suncor Energy, took 60 Minutes into his strip mine for a tour. He says the mine will be in operation for about 25 years.

The oil sands look like a very rich, pliable kind of topsoil. Why doesn't oil come out when squeezed?

"Well, because it's not warm enough. If you add this to hot water you'll start the separation process and you'll see the oil come to the top of the water and you'll see sand drop to the bottom," George says.

It may look like topsoil but all it grows is money.

It didn't always. The oil sands have been in the ground for millions of years, but for decades, prospectors lost millions of dollars trying to squeeze the oil out of the sand. It simply cost too much.

T. Boone Pickens, a legendary Texas oil tycoon, was working Alberta's traditional oil rigs back in the '60s and remembers how he and his colleagues thought mining for oil sands was a joke.

"Here we are sitting there having a drink after work and somebody said this isn't going to, it isn't possible. It'll all have to be subsidized to a level, said, before they'd make money you'd have to have $5 oil," Pickens says laughing. "We never thought it would happen."

But then $40 a barrel happened and the oil sands not only made sense, they made billions for the people digging them. But it wasn't just the price of oil that changed the landscape, it was the toys. That's what they call the giant trucks and shovels that roam the mines.

Everything about the oil industry has always been big. It's characterized by bigness, from the pumps to the personalities. But up here in Alberta, it's frankly ridiculous. The mine operates the world's biggest truck. It's three stories high and costs $5 million. It carries a load of 400 tons of oil sands, which means, at today's oil prices, each load is worth $10,000 dollars.

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ATTACHMENT 1

What it's like to drive one of these monsters? At the foot of a tire, we asked the driver, Jim Locke.

"You have 14 steps going up, and at my house you have 14 steps to the bedroom. So it's like going upstairs in my house, sitting on my bed and driving the house downtown," says Locke.

But getting downtown is just the beginning. The oil sands then go into a plant. They're heated in a cell, which separates the oil from the sand. The result looks like something out of Willy Wonka's chocolate factory. This oil froth is then sent to an upgrader and eventually to a refinery.

Asked if the processed oil is as good as that pumped in Saudi Arabia, Mather says, "Absolutely as good as. In fact, it even trades as a, at a premium because it's high quality crude oil."

The capital of the oil sands frenzy is a frontier town called Fort McMurray, which isn't in the middle of nowhere. It's north of nowhere and colder than the Klondike, but a boomtown just the same. The local hockey team is called the "Oil Barons." They're on a winning streak.

Is this comparable to a gold rush?

"I think it's bigger than a gold rush. We're expecting $100 billion over the next 10 years to be invested in this area — $100 billion in a population that, currently, is 70,000 people," says Brian Jean, who represents the region in Canada's parliament.

Pickens is one of those investors. He runs a hedge fund in Dallas and is now a true believer.

"We're managing $5 billion here. And, about 10 percent of it is in the oil sands. So, it's the largest single investment we have," Pickens says.

And if oil sands are the answer for investors, does Pickens think the oil sands are the answer for the United States?

"Oh, I think so," he says.

Most of those lumbering trucks are on their way to the gas tanks of America. A million barrels a day are now coming out of the oil sands and oil production is expected to triple within a decade. It won't replace Middle Eastern oil but at that point it will be the single largest source of foreign oil for the United States, even bigger than Saudi Arabia, which sends a million and a half barrels a day to America.

Greg Stringham, who works for the Canadian Association of Petroleum Producers, says surprisingly, that Washington has only been paying attention for the "last couple of years."

Stringham often lobbies for the oil sands in Washington. He says that in Alberta you don't have to look for the oil sands — the earth moves.

"When it comes to exploration in the oil sands, you can't drill a dry hole. It's there," he says. "We know where it is. They've outlined it. You don't have any risk. But other conventional sectors around the world, there's a huge exploration risk."

The exploration risks are the least of it. Much of the world's crude is in the Middle East where the instability is deeper than the oil. When Alberta's blue-eyed sheiks took to Wall Street last summer in their Stetsons to drum up support for the oil sands, their message seemed to be, "If you can't trust Alberta, who can you trust?"

"Alberta is a very good place to do business. It's a very stable environment," says Mather.

The bonus for Canadians, aside from the treasure, is the notion that Americans might have to start treating them with a little less condescension.

"With their oil, I think we're going to need them a lot more than they need us," says Pickens.

"We may appear in Canada to be a mouse compared to the elephant down south in terms of diplomacy or politics. But in terms of resources, we are mighty equals," says Mather.

There have been grumblings out of Ottawa that Canada should consider using the oil sands as leverage in its serious trade disputes with the United States.

Does Brian Jean think America is taking Canada for granted on the oil sands?

"Absolutely. And I think most people, most Canadians believe that," he says.

And the Canadians have alternatives. The Chinese, for example, are just dying to get a piece of the sandbox.

"I've been contacted personally by Chinese delegates that want to get into the plant sites here and want to see and want to invest," says Jean.

Asked what he thinks about the Chinese interest in the oil sands up in Alberta, Pickens says, "At first I thought they were tire kickers. But I think they're serious buyers."

And the millions of Chinese who have moved from their bicycles to traffic jams are driving up the demand for oil. It's virtually insatiable and the Canadians want to step up production quickly. What's holding them back is labor — the shortage of it.

Brian Jean says another 100,000 people are needed in Fort McMurray.

That's why one oil company has built a runway to fly workers daily from civilization to Fort McMurray. But why would anyone want to come work in a place where temperatures plummet to 40 below and the sun sets shortly after it rises in the long winter? Well, perhaps because the oil companies pay some of the highest salaries in North America.

Take Josh Lichti, who says he could be making $120,000 by the time he is 22.

"It's amazing," he says.

But even if workers come flocking, the oil companies still have other problems. Creating energy from oil sands requires so much energy that the oil companies wind up spiking greenhouse gas emissions.

"And they do it in volumes that exceed any other production of oil crude anywhere on the planet," says Elizabeth May, the director of the Sierra Club of Canada.

She takes issue not only with what the oil sands are doing to the atmosphere, but to the land. The oil companies, environmentalists say, are digging up an entire province. Take a helicopter ride over the mines and you'll think you're flying over the moon after a moonquake.

"One of the reasons they can be mined the way they've been mined is the out of sight, out of mind aspect of it. And your film crew is one of the few that's gone in there to look at how devastating this is," May says.

Even money men like Pickens have noticed. "Can't argue with it. I mean, there's no question that, that they've got a mess up there. But I do think they'll take care of it over time," he says.

The oil companies say they will reduce greenhouse gasses and they point out they are required by Canadian law to refill old mines and plant new trees, and that is happening — slowly. One company, Syncrude, has even introduced bison to land that once was a barren pit.

Rick George of Suncor Energy insists in the future people won't recognize the mines. "So what you see today is a mine. What you'll see 10 years from now is a replanted forest," he says.

"You're telling me that if I come here, it's gonna be pretty?" Simon asks.

"Absolutely," George says. "These sites will all be going back. Now we'll be minin' at a different location at that point.

"This will look forested when we get done with it in 20 years time."

But there is a larger question that not only environmentalists are asking: will the availability of an enormous supply of secure oil right next door mean America will have little incentive to reduce its dependence on oil?

"What Canada's doing," says May, "is continuing to feed the U.S. addiction to fossil fuels, instead of being the kinda friend who says, 'Let's make a helpful intervention here.' We're acting as the supplier of a drug fix to the U.S., while all the time saying, 'Just say no.' But we keep selling it."

But unless the Chinese go back to bicycles and Americans trash their SUVs, there will be buyers — for oil anywhere, no matter how it's found or mined. Right now, Canada has become the land of opportunity for oilmen. They will tell you there is little else on the horizon.

"Bob, if you take a tablet and put on it where is supply gonna come from that we don't know about today. And you put down all the optimistic points, that tablet will basically be blank," says Pickens.

As blank as the landscape around Fort McMurray, where the world of oil exploration ends.

Does Pickens think the days of cheap oil are gone?

"They're gone," he says. "From what we knew as cheap oil, when I pumped gasoline in Ray Smith's Sinclair station on Hinkley Street in Holdenvale, Oklahoma, 11 cents a gallon, that's gone."

Will we ever again see $1.50 a gallon? "We won't ever see $1.50 a gallon. No, that's gone," says Pickens.

Right around the corner from Fort McMurray you can still see oil being produced the traditional way. It's picturesque now. The wells are still pumping but they belong to the past, like the iron horse that once rode across these prairies.

The future? Up here in Alberta they're convinced it's in the dirt.

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KANSAS WATER AUTHORITY

Testimony on HB 2588 - Requiring the KCC and CURB to Consider Long Term Costs/Benefits in Reviewing the Prudence of Proposed Investments in Generation

January 24, 2006 House Utilities Committee

Mr. Chairman, Members of the Committee: HB 2588 seeks to codify as a requirement what the KCC and CURB can currently do. Traditionally, applications to the KCC for recovery of investment in new generation have focused on the need for more electricity to serve their customers and the appropriateness of new generation being constructed versus purchasing power from other generators.

HB 2588 would require the KCC to consider long term economic, social, and other benefits to customers. The Commission, according to staff, do not consider such matters as traditional elements of rate making, and therefore they probably would not be included in the Commission's and staff's calculations.

This issue is brought before the Committee because of two factors: 1) AEP "venue shopped" among the public utility commissions of three states before deciding where to construct an IGCC (coal gasification electric generation) plant. The company correctly observed that an IGCC plant will cost more to construct today than a clean coal technology plant, but that if EPA continues to increase restrictions on plant emissions and carbon sequestration becomes a reality, then over the 40-year life of a generation unit the cost of an IGCC plant <u>may</u> be more cost-effective from the perspective of the ratepayers; and 2) An objective of this Committee over the past six or seven years has been to put in place tools that can be used by the Commission and utilities when the timing is appropriate. There is no expectation on my part that a utility will apply to construct an IGCC or other new technology plant in 2006. However, I believe that having in statute a formal requirement for the Commission, staff, and CURB to consider the long term expectations about environmental and other requirements that ultimately will affect the cost of operating and maintaining generation units, and thus the cost of power to consumers, will be beneficial.

Mr. Chairman, I appreciate the Committee's attention and look forward to responding to questions.

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ATTACHMENT 2

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Testimony in favor of H.B. 2588
On behalf of the Kansas Chapter of Sierra Club
Before the Kansas House Utilities Committee
January 24, 2006

Mr. Chairman, members of the Committee, thank you for allowing me to testify in support of H.B. 2588 on behalf of the Kansas Chapter of the Sierra Club - the largest grass-roots environmental organization in the world with over 750,000 members, including over 4,000 in Kansas. The Sierra Club strongly supports public policies that encourage energy efficiency and renewable energy.

H.B. 2588 would allow the Kansas Corporation Commission, when determining whether or not an investment by a utility in electric generating property is "prudent", to consider "technologies which provide long-term economic, social and other benefits, including, but not limited to, environmental benefits and avoided costs of meeting anticipated regulatory requirement over the life of the property." We believe that the addition of this statutory language sends a strong signal to the Kansas Corporation Commission that the Kansas legislature believes that use of renewable energy technologies and environmental upgrades to existing electric generating plants by utilities should be considered as having long term benefits to ratepayers.

We would respectfully request the additional language "and demand management programs" be inserted in lines 27 and 28 on page 2 as follows so that the entire new Section 1(b)(2)(c) reads as follows, with suggested new language in boldface:

In making the determination of "prudence" or lack thereof in determining the reasonable value of any property under K.S.A. 66-128, and amendments thereto, the commission shall consider technologies ***and demand side management programs*** *which provide long-term economic, social and other benefits, including, but not limited to, environmental benefits and avoided costs of meeting anticipated regulatory requirements over the life of the property.*

This suggested change would also send a strong signal from the Kansas legislature to the Kansas Corporation Commission that long term investments in demand side management (or efficiency) should also be a factor that the Commission considers when evaluating "prudent" investments by utilities.

Thank you for your consideration of this testimony. I will stand for questions when appropriate.

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ATTACHMENT 3

Citizens' Utility Ratepayer Board

State of Kansas
Kathleen Sebelius, Governor

David Springe, Consumer Counsel
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HOUSE UTILITIES COMMITTEE
H.B. 2588

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
January 24, 2005

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2588. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

CURB is not opposed to the proposed language in Section 1 (page 2, line 25) of the bill, amending K.S.A. 66-128g and requiring the Kansas Corporation Commission "shall" consider technologies which provide long-term economic, social and other benefits in determining prudence. CURB believes that the Commission does this currently, and the language is consistent with the current discretion and scope of the Commission's authority. CURB would prefer to replace the "shall" in line 27, page 2, with "may", to give the Commission flexibility. There may be instances where prudence under K.S.A. 66-128g is apparent, and the new language would require an extensive analysis in every instance, of other less germane issues simply because the Commission has no choice given the "shall" in the statute. Some flexibility may be preferred.

CURB is opposed to Section 2 and Section 3 of the bill. Both of these sections contain the same general language, with Section 2 applying to CURB and Section 3 applying to the Kansas Corporation Commission.

Section 2: Amends K.S.A. 66-1223 to include "*In carrying out their duties, the citizens' utility ratepayer board and the consumer counsel shall support use of electric generation and transmission facilities which have the lowest cost over the life if the facility rather than the lowest short term cost.*"

It is, and has always been the policy of CURB to seek the lowest "reasonable" rates for our consumers. CURB recognizes that there are many important factors that go into resource acquisition and the ratemaking process, and a myopic goal of simply achieving the absolute lowest rate outcome is not necessarily in the best interest of the consumers we represent. The Board takes into consideration many factors, some cost based, some not cost based, it determining what it believes to be a reasonable on behalf of the consumers CURB represents.

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CURB views the proposed language in this bill as taking away that flexibility. The language places an affirmative mandate ("shall support") on CURB, to the exclusion of all else, to find the electric generation and transmission facilities with the lowest cost over the life of the facility. This will require constant study to determine exactly which resource has this characteristic in every instance. As drafted, CURB is unclear whether this will allow any flexibility to take into account other considerations that may be appropriate and beneficial for the consumers CURB represents. While the lowest long term costs are certainly important, there are other important factors that the Board must consider.

More importantly, CURB has always operated as an independent agency, with the Board setting policy and overseeing the positions that the agency takes on issues. The legislature created CURB to be the voice of, and representative for, the interests of residential and small commercial ratepayers. To date, the legislature has never dictated to the Board how it should best represent those interests.

CURB respectfully requests that the Committee delete the language contained in Section 2 of this bill as it relates to the agency, and the agency's representation of its clients interest.

Section 3: Requires the Commission, in carrying out its duties, "shall support" use of electric generation and transmission facilities which have the lowest cost over the life of the facilities rather than the lowest short term cost. CURB is concerned that as the decision making body for the state, the language "shall support" may bind the hands of the Commission, regardless of what CURB, the utilities or other entities may propose in any given instance. Rather than being open to hearing all evidence in support of, or in opposition to a proposal, and to make a decision based on the evidence, the language here requires the Commission to support only one possible outcome.

CURB would also note that there may be an inconsistency between what the Commission "shall support" per this language, and what the Commission "shall consider" in the language in Section 1 of the bill. Section 1 of the bill requires the Commission shall consider technologies with long term economic, social and other benefits, including environmental benefits, which may all be irrelevant if the Commission shall support only the particular option with the lowest long term cost.

CURB respectfully requests that Section 3 of the bill also be deleted.

KANSAS
CORPORATION COMMISSION

BEFORE THE HOUSE UTILITIES COMMITTEE

COMMENTS OF THE
KANSAS CORPORATION COMMISSION
On

HB 2588

January 24, 2006

Thank you, Chairman and members of the Committee. I am Don Low, Director of the Utilities Division for the Kansas Corporation Commission. I appreciate the opportunity to be here today to testify for the Commission on HB 2588.

The bill would appear to do two things insofar as the KCC is concerned. New Section 1(c) would add to the list of factors in existing Section 1 (a) for determining prudence and value of generation facilities. The bill would require consideration of technologies that provide long-term economic, social, environmental or other benefits.

New Section 3 would require that the Commission: "in carrying out its duties, . . . support use of electric generation and transmission facilities which have the lowest cost over the life of the facilities rather the lowest short-term cost."

It does not appear to be the intent of this bill to mandate changes in the Commission's practices. The Commission attempts to look at all the significant factors in reviewing a proposed new electric generation facility. Certainly, in connection with the recent review of the KCPL resource plan, the KCC considered the environmental benefits of the plan. And the Commission has historically looked at the costs over the total life of a plant rather than just the short term costs. For example, the relative life cycle costs of a nuclear plant versus a coal plant were a major consideration in the Commission's decisions in the Wolf Creek rate cases in 1985. Consequently, it is unclear why this bill is necessary.

However, if this bill is to be considered for enactment, the Commission has concerns about its current form. The wording of New Section 3 is a departure from the phrases typically used in the statutes relating to Commission decisions. Thus, it is unclear what "shall support" means - is the long term cost of a facility an important consideration worthy of support or is it to be the decisive factor? Also, what does "support" require in the form of Commission action in various contexts? "Supporting" a generation plant in the review of a resource plan may mean something different than supporting a plant in the context of a rate case.

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ATTACHMENT 5

To avoid possible confusion, I would suggest making the new provisions subsections of the current 66-128g (a) list of considerations, inserting them before current subsection (12) which is a catchall:

(12) whether the facility involves a technology that provides long term economic, social and other benefits, including but not limited to, environmental benefits and avoided costs of meeting anticipated regulatory requirements over the life of the property;

(13) a comparison of total costs of generation over the life of the facility with reasonable alternatives;

(1~~2~~4) any other fact, factor . . . .

Thank you for your consideration. I would welcome any questions.

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Testimony on HB 2589 - Renewable Energy and State Agencies; Off-System Sales of Electricity from New Generation Units

January 24, 2006 House Utilities Committee

Mr. Chairman, Members of the Committee: HB 2589 addresses two broad policy issues related to Kansas' return to being a net energy exporter. Traditionally Kansas exported more energy than we imported. With the decline in production of oil and gas and the closure of several oil refineries, the state imports more energy than we sell "abroad." Not only is this not economically good for the state, but it places us at the wrong end of the energy supply line. I firmly believe that it is better to be close to the energy production facility, than to be at the end of the distribution chain.

HB 2589 has two separate approaches to encouraging the development of jobs in KS:

A. HB 2589 provides that between January 1, 2007, and January 1, 2010, not less than 2.5 percent of the total electricity consumed by each state agency shall be generated from renewable energy resources or technology. After January 1, 2010, the percentage will be 10 percent.

The objective is for the state to act as a market driver for the development of renewable energy in Kansas. The U.S. Dept. of Energy states that Kansas has the third best potential of all states to generate electricity from wind resources. In addition, we are cited as having great potential to generate electricity using bio-mass. Potentially, solar energy and other renewable fuels may become cost competitive.

As a market driver, the state will require the traditional electric providers to develop or purchase renewable energy. Aquila and Empire District already provide wind-generated power to their customers within their KCC-approved tariffs; KCPL has contracted for wind energy and will provide that power to customers within their KCC-approved tariff. Development of renewable energy resources to meet the state's needs will accomplish several benefits: 1) provide income to rural Kansas landowners, better enabling them and subsequent generations to remain in farming/ranching; 2) provide in lieu of tax payments to local school districts and county governments, thereby reducing the need for revenues from more urban taxpayers; 3) reduce the need for imported coal and natural gas to generate electricity; and 4) provide some environmental benefits regarding carbon, SOX, NOX, and other by-products of fossil-fuel consumption.

The state provides tax and other incentives to stimulate production of electricity from all types of

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fuels. The Special Joint Committee on Energy has recommended additional incentives to stimulate the production of bio-fuels. We have an existing state law requiring state agencies to purchase bio-fuels (ethanol and bio-diesel) for their vehicles as a means of stimulating local production of these energy forms and for the people of Kansas to realize the economic benefits. Requiring state agencies to acquire a small portion of their electricity, through their existing supplier, will not create a burden on the agencies nor the utilities and will provide economic stimulus to the rural citizens and local governments.

B. HB 2589 also permits utilities to retain 50 percent of net revenues from wholesale off-system sales of electricity generated by units placed in service after January 1, 2008. Currently, off-system sales revenues are allocated by the KCC to reduce customer rates or the need for increases in retail customer rates. This has been a very valuable benefit to ratepayers, but has not provided incentives for electric utilities to make a concerted effort to increase the export of power.

The proposed language provides that electric utilities could look at off-system sales from generation units going on line after January 1, 2008, as a potential profit opportunity. My reason for proposing this language is to provide an additional incentive for the construction of new generation in Kansas - regardless of the fuel source. Ultimately, this provides construction jobs, operations positions, tax revenues, and additional electricity available to Kansans in times of crisis.

Enactment of this language will not alone lead to the construction of such generation units, however it will contribute to the decision to construct. This language is similar to existing statutory language that permits utilities to retain 50 percent of off-system sales revenues from the sale of renewable power. Separately, efforts are moving forward to enhance the transmission line capacity within Kansas to facilitate the movement of additional power to surrounding states and beyond. Each of these efforts alone is not necessarily significant, but cumulatively they contribute to an environment in which utility companies will invest in additional generation.

Mr. Chairman, I appreciate the Committee's attention to these ideas and will be pleased to respond to questions at the appropriate time.

Citizens' Utility Ratepayer Board

Board Members:
Gene Merry, Chair
A.W. Dirks, Vice-Chair
Carol I. Faucher, Member
Laura L. McClure, Member
Douglas R. Brown, Member

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HOUSE UTILITIES COMMITTEE
H.B. 2589

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
January 24, 2006

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2589. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

1. Net Revenues from Wholesale Off-system Sales

CURB strongly opposes the provision in Section 2 (page 2, line 24) of the bill, amending K.S.A. 66-1,184a(b) to allow utilities to retain "50% of the utility's net revenues from wholesale off-system sales of electricity generated by capacity placed in service on or after January 1, 2008." This provision will simply transfer millions of dollars from retail ratepayers to shareholders. Retail ratepayers are expected to pay all of the costs of utility service, including all of the cost of generating plant. To the extent that the utility can use that generating plant to make additional revenue in the wholesale market, the current policy of the Commission is to credit those revenues back to retail customers to help offset the cost of plant. Where retail ratepayers have 100% of the cost responsibility, the retail ratepayers should continue to have 100% of the revenue benefit.

2. State Agency Renewable Energy Supply

CURB is generally supportive of renewable energy resources, however, CURB does not support, at this time, using the type of inflexible mandate as is set forth in Section 1 of this bill. While the level of renewable energy mandated under the bill is not excessive (2.5% state agency load through 2010, and 10% thereafter), the bill leaves little flexibility for state agencies, or for an agency's electric supplier, to meet the requirements set forth in the bill.

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

- The electric supplier should be allowed to make a reasonable estimate of its state agency load on an aggregate basis. The electric supplier 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.
    - "*the electric supplier and the state agency will be deemed to meet the requirements of this act if the electric supplier provides energy from renewable resources in an amount equal to the required percentage multiplied by the aggregate total state agency load on the supplier's system.*"

- The language at line 21, restricting the generation facilities to only those constructed after December 31, 2006 should be deleted.

- The language at line 25 requiring that the electricity "shall" be provided at the provider's standard rates for electric service, should be restated to be "may" be provided at the provider's standard rates for electric service. Using "shall" in this instance means that customers other than the state agencies that are the subject of this mandate will have to subsidize the costs to the state agencies. This language removes the flexibility of the Kansas Corporation Commission, CURB, the electric suppliers, 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.

- State agencies or their electric suppliers should be allowed to purchase "green certificates" as a method of meeting the mandates of the bill. The requirements of this bill apply to every electric supplier in the state, including many small municipal systems or rural co-ops. The bill must provide some flexibility for these smaller suppliers to meet the obligations set forth in the bill.

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

- Section 1(e) 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.

- Section 1(e) should also be amended to exclude any state agency that does not have control over its bill for electricity. Some agencies my rent space under a utilities paid lease. Some clarification should also be made for these agencies.

- Some clarification should be provided as to who oversees the obligations, rules and reporting under this programs. While the bill mentions KCC, the department of administration may be a more appropriate agency to oversee this mandate. Administering the requirements of this act for each agency, and each electric supplier will not be a small endeavor.

KANSAS

CORPORATION COMMISSION

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

BEFORE THE HOUSE UTILITIES COMMITTEE
PRESENTATION OF THE
KANSAS CORPORATION COMMISSION
January 24, 2006

HB 2589

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 2589.

Section 1 of this bill requires state agencies to obtain at least 2.5% of their electricity from renewable energy resources after January 1, 2007 and at least 10% of their electricity from renewable energy resources after January 1, 2010. Additionally it provides the Commission with authority to levy civil fines against any non-complying agency and electric provider for each day of noncompliance.

Section 2 of this bill amends K.S.A. 66-1,184a to allow a utility to retain 50% of the net revenues from off-system sales generated by capacity placed in service on or after January 1, 2008.

The Commission is concerned about the requirements of Section 1 of this bill and opposes Section 2.

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Section 1

Section 1 of this bill appears to attempt to mandate a renewable energy requirement for state agencies, but gives them no opportunity to purchase renewable energy if their utility provider does not supply it. Under the Kansas Retail Electric Suppliers Act state agencies must purchase electricity from the utility that has the certificated territory where the state agency consumes the electricity. The state agency has no choice but to purchase its electricity from this single certificated supplier. If that retail electric supplier does not have renewable energy available for purchase, the state agency would be required to either violate the law, or install its own renewable generation. Additionally, because an electric utility customer cannot install generation in a different location and "wheel" it across the utilities distribution system, per the parallel generation act, the agency would have to install the generator on-site or construct its own electric delivery lines.

Suppose, for example, this bill were passed and Westar did not have adequate renewable generation to serve 2.5% of the needs of state agencies in the Docking building on January 1, 2007. The Commission could fine Westar and every agency in the Docking building. The agencies in the Docking building could install a large wind turbine on the roof, or perhaps cover the building with solar panels to avoid the fine, or even put large wind turbines outside of town and build the necessary electric wires, poles and structures to deliver the power to the Docking building. This wouldn't necessarily be the most efficient or the best way to produce renewable energy, but it would comply with the proposed statute.

Furthermore, because a state agency may aggregate consumption of all of its facilities, under 1(b)(2) of the bill, it is unclear which utility should be held accountable. The Kansas

Department of Transportation, for example, has facilities served by dozens of different electric utilities. Which one would be fined if KDOT doesn't, or can't, meet these requirements?

If the intent of section 1 of this bill is to require electric utilities to provide enough renewable energy to satisfy the minimum requirements specified for state agencies, it may make more sense to clearly require just that. It would appear the burden of providing renewable energy should be solely the responsibility of the utility providing electric service.

Section 2

The Commission opposes Section 2 of this bill and would also like to take this opportunity to point out to the Committee errors made when originally enacting 66-1,184a, since this may be the best opportunity to correct such errors.

First, the proposed additional of section (b)(3) to 66-1,184a would allow a utility which places a generating unit in service after January 1, 2008 to retain 50% of its net revenues from off-system sales. The Commission opposes this provision. The selection of a least cost generating plan often depends on revenue produced in the early years by net margins on off-system sales. A least cost generation plan requires a utility to consider various generation and purchase power options over a long period of time to select the most efficient generation supply plan. Because large baseload units almost always exceed a utility's incremental power needs, off-system sales net revenues are used to off-set the high initial costs of a new baseload unit in the years before all of the capacity is needed for the utility's customers.

Consider a simple example analysis of a 20-year generation supply plan. Suppose a utility knows that it needs to add 500 MW of generation over the next 20 years, and it has two options. The first option is to install a 100 MW combustion turbine every 4 years. The second option would be to purchase 100 MW off-system for the first 8 years, until a 500 MW coal unit can be constructed and placed in service. Since a coal unit costs roughly four times as much as a combustion turbine, on a MW basis, the first option has much lower construction costs. However, combustion turbines use natural gas, which costs a great deal more than coal. To compare the two options, the utility would look at its annual costs for both building and operating the generation plants, including its annual fuel costs, and any off-setting revenues from off-system sales or costs from off-system purchases. Once the projected costs for each year are estimated, the present value of each option is compared.

Suppose that the utility would be allowed to remove 50% of the net revenue from off-system sales from the equation. This would make the second option, the coal plant, far more expensive, *since half of the off-system sales net revenue would no longer lower costs.* This proposal would tend to bias generation decisions in favor of low initial cost, but high fuel cost generation options.

In fact, during the Commission's recent approval of a stipulation and agreement under which KCPL proposed to build a 900 MW coal facility, one of the options considered was to merely construct gas-fired combustion turbines. If KCPL had not agreed to use all of the off-system sales net revenue to help ratepayers pay for the high capital costs related to the new coal unit, the natural gas-fired option would have had a lower cost present value for ratepayers, and would have likely been the preferred option. Given what has since happened to gas prices and the importance to the state's economy of securing a long-term efficient means of generating reasonably priced electricity, I doubt that this would have been the best solution. The critical point is that crediting to ratepayers the full benefits of the generating resources that their rates are financing, provides the best long term solution.

The second issue with section 2 of the bill that I would like to address at this opportunity is the strange wording of the existing statute, 66-1,184a. First, I would like to point out that the current language (and the same language is used in HB 2636) defines renewable energy as "thermal" energy. This would of course include oil, gas and coal fired generation, as well as nuclear. In fact, most, if not all, forms of generation would be considered renewable under this definition.

The second concern refers to redundant sections of the statute that do not appear to make much sense. While I do present this testimony on behalf of the Commission, I am in a unique position to comment on this and provide the committee with an opportunity to correct an error made in 2002. To explain this issue I ask you to look at both (b)(1) and (b)(2) of K.S.A. 66-1,184a, and note that together the statute appears to make little sense.

During the waning hours of the 2002 legislative session I was asked to attend a conference committee meeting that was attempting to resolve the bill which eventually implemented K.S.A. 66-1,184a. The conference committee resolved how they wanted to mark up the language and then asked me to prepare the markup and deliver it back for incorporation into the bill. I returned to my office and prepared the markup and saved the following language in "Microsoft word":

[(3)] ''Renewable resources or technologies'' means wind, solar, thermal, photovoltaic, biomass, hydropower, geothermal, waste incineration and landfill gas resources or technologies located in Kansas.
(b) Upon application of an electric public utility, the state corporation commission may authorize such utility to:
(1) ~~Retain 65% of the utility's net revenues from wholesale off-system sales of electricity generated from renewable resources or technologies~~ ~~**[or from sales of renewable attributes]**~~ ~~if such electricity is~~ ~~**[or attributes are]**~~ ~~purchased by the utility at not less than the average price paid by such utility for electricity~~ ~~**[or renewable attributes]**~~ ~~purchased pursuant to contracts of five or more years' duration; and~~
~~(2)~~ retain 50% of the utility's net revenues from ~~all other~~ wholesale

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off-system sales of ~~purchased electricity generated from renewable resources or technologies [or from sales of purchased~~ **renewable attributes** **<u>from renewable energy procured or constructed principally to serve Kansas retail customers.</u>**

When the document was opened, it was opened with "Wordperfect." Unfortunately at that time Wordperfect would open Word programs but <u>*would not show any of the strickeouts.*</u> The language thus appeared without the strikeouts in the conference legislation, which was subsequently adopted by both houses. The Committee may want to use this opportunity to revise this language so that the statute is corrected. As it now stands, it makes no sense.

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Testimony in opposition to H.B. 2589
Before the Kansas House Utilities Committee
On behalf of the Kansas Chapter of Sierra Club
January 24, 2006

Mr. Chairman, members of the Committee, thank you for allowing me to testify in opposition to H.B. 2589 on behalf of the Kansas Chapter of the Sierra Club - the largest grass-roots environmental organization in the world with over 750,000 members, including over 4,000 in Kansas. The Sierra Club strongly supports public policies that encourage energy efficiency and renewable energy.

While the Sierra Club opposes this bill as written, the Sierra Club strongly supports the goal of requiring state agencies to increase the amount of energy they consume from "renewable energy resources and technologies." If anything the Sierra Club would increase the percentages of the energy consumed by state agencies to be derived from renewable energy resources and technologies in the time frames laid out in the proposed legislation.

What the Sierra Club does not support is Section 2 (b) (3) of this bill that reads:
Retain 50% of the utility's net revenues from wholesale off-system sales of electricity generated by capacity placed in service on or after January 1, 2008.

The Chapter's position is that this provision, if enacted, would be an inducement to the plans of certain Kansas utilities to build new coal-fired generating capacity. This new coal-fired generating capacity will start out serving mostly wholesale markets. Currently utilities have to give the profits back to ratepayers. Furthermore, this provision undermines one of the biggest advantages wind power has over coal power which is that wind farms can be installed economically in relatively small increments as load increases, making unnecessary any reliance on off-system sales to support its financing.

The negative aspects of this inducement in Section (b) (3) to utilities to construct more non-renewable electric generating capacity greatly exceed the relatively modest advantage of state agency purchases of renewable energy. So long as this provision is in this proposed legislation the Kansas Chapter of the Sierra Club will strongly oppose H.B. 2589. With this provision removed the Sierra Club will strongly support H.B. 2589.

Thank you for your time and attention. I will stand for questions when appropriate.

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ATTACHMENT 9

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STATE OF KANSAS

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HOUSE OF
REPRESENTATIVES

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

KANSAS WATER AUTHORITY

Testimony on HR 6005 - Resolution to the Southwest Power Pool Concerning Economic Transmission Projects

January 24, 2006 House Utilities Committee

Mr. Chairman, Members of the Committee: The Federal Energy Regulatory Commission (FERC) has encouraged the formation of regional transmission organizations (RTOs) to coordinate electric transmission services between electric generators, transmission owners, and power purchasing utilities. For Kansas, the RTO is the Southwest Power Pool (SPP).

Under the SPP's operating rules, there are two types of transmission construction projects: base and economic. Base projects are those necessary for the continued reliable operation of the inter-connected transmission system. Utilities provide information about the cost and need for the project to the SPP engineers and, if approved, two thirds of the project costs are paid by the transmission owner proposing the project and one third is apportioned to all SPP members.

Economic projects are those which would permit more cost-effective dispatch of electricity by moving "excess" power from low-cost generation units to high cost customer service areas. They also can be lines necessary to connect new generation units to the grid. Economic transmission project costs are paid by the requesting transmission owner(s) or direct beneficiaries.

Several years ago, a massive ice storm in SE Kansas and NW Oklahoma knocked out the primary transmission lines. Service to customers was maintained because municipalities brought their peaking generation units on-line. Currently there are several economic transmission line projects proposed in central Kansas that would provide not only a means to move lower cost power to high cost areas and increase the potential to export "surplus" power from Kansas, but that would provide enhanced reliability to both the regional and Kansas transmission systems by providing a redundant capability to the line that was adversely impacted by the ice storm.

HR 6005 calls upon the SPP to recognize the system reliability value of economic projects by essentially using the same cost-recovery formula as for base projects. This is important to Kansans because the Chairman and I have worked with our state's utilities, SPP and FERC to make the expansion of transmission line capacity in our state a national and regional priority. We are succeeding, but providing a more realistic cost-recovery mechanism will assist us.

Resolutions do not require any action by the recipients; this is particularly true for out-of-state organizations like the SPP. However, resolutions can be very important in providing a sense of what is important to the Kansas Legislature. I ask you to support HR 6005 as a means of demonstrating support for a more appropriate cost-recovery mechanism for economic projects.

Mr. Chairman, I would welcome the opportunity to respond to questions at the appropriate time.

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ATTACHMENT 10