

MINUTES OF THE HOUSE UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on February 20, 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
Renaë Hansen, Committee Secretary
Heather Klausen, Research Intern

Conferees appearing before the committee:

Representative Annie Kuether
Carol McDowell, Tall Grass Rancher Association
Dave Springe, CURB
Representative Tom Sloan
Paul McCoy, Chief Operating Officer, Trans-elect, inc.
Tom Stuchlik, Executive Director Transmission Services, Westar
Larry Holloway, Chief of Energy Operations, KCC
Representative Tom Hawk
Bruce Sneed
Charles Benjamin, Kansas Sierra Club
Phil Wages, KEPCO
Dave Holthaus, KEC
Mark Schreiber, Manager Government Affairs, Westar

Others attending:

See attached list.

Hearing on:

HB 2932 **Jurisdiction of the state corporation commission over certain utilities.**

Representative Annie Kuether presented testimony (Attachment 1), on **HB 2932** and why changes in the law would be good for the state of Kansas in not allowing all private companies to come into Kansas and have the power of eminent domain.

Carol McDowell, Tall Grass Rancher Association, (Attachment 2), presented testimony with five attached appendixes, in support of **HB 2932**.

Questions were asked by Representatives: Tom Sloan, Carl Holmes, Melody Miller, and Tom Hawk.

The hearing on **HB 2932** was closed.

Hearing on:

HB 2926 **Creation of an independent electric transmission company in Kansas.**

Representative Tom Sloan presented testimony (Attachment 3), in favor of **HB 2926**, allowing for the development of a more robust transmission system in Kansas.

Paul McCoy, Chief Operating Officer, Trans-Elect, Inc., (Attachment 4), presented a statement in support of **HB 2926**. Additionally, he gave some background on his company and how it has been aggressive in helping other areas of the country move forward in additional transmission endeavors.

Tom Stuchlik, Executive Director Transmission Services, Westar, (Attachment 5), presented testimony in opposition to **HB 2926**.

CONTINUATION SHEET

MINUTES OF THE House Utilities Committee at 9:00 A.M. on February 20, 2006 in Room 231-N of the Capitol.

Larry Holloway, Chief of Energy Operations, KCC, (Attachment 6), also in opposition to **HB 2926**.

Questions were asked and comments were made by Representatives: Carl Krehbiel, Lynne Oharah, Annie Kuether, Melody Miller, Tom Sloan, Carl Holmes, Tom Hawk, and Don Myers.

The hearing on **HB 2926** was closed.

Hearing on:

HB 2934 **Weatherization, energy efficiency and energy conservation programs; imposing charges on electric and natural gas sold to consumers.**

Representative Tom Hawk presented testimony, (Attachment 7), in favor of **HB 2934**.

Bruce Sneed, Manhattan, Kansas, presented a statement, (Attachment 8), as a proponent to **HB 2934**. He explained how the bill creates a funding mechanism and two state funds which will be used to address energy conservation through the state weatherization program in the Kansas Housing Resources Corporation, and energy efficiency technical assistance through the state corporation commission.

Charles Benjamin, Kansas Sierra Club, (Attachment 9), provided a statement why **HB 2934** will be good for the citizens of Kansas.

Dave Springe, CURB, (Attachment 10), presented testimony in opposition to **HB 2934**, as this bill places a new tax on electric and natural gas customers in the state to fund the state weatherization fund and the energy efficiency technical assistance fund.

Phil Wages, KEPCO, (Attachment 11), presented testimony standing in opposition to **HB 2934**, for several reasons set forth in their testimony.

Dave Holthaus, KEC, (Attachment 12), presented opposition testimony on **HB 2934**.

Mark Schreiber, Manager Government Affairs, Westar, (Attachment 13), presented testimony on **HB 2934** that was neutral to the proposed legislation.

Norma Phillips, Kansas Housing Resources Corporation, (Attachment 14), presented testimony that supports **HB 2934** and other efforts by the legislature to further the efforts of energy efficiency and conservation programs.

Questions were asked and comments given by Representatives: Carl Krehbiel, Tom Sloan, Tom Hawk, Carl Holmes, Melody Miller, Peggy Mast, and Oletha Faust-Goudeau.

Hearing on **HB 2934** was closed.

Hearing on:

HB 2927 **Effective date of certain municipal franchise fees in annexed areas.**

Mark Schreiber, Manager Government Affairs, Westar, (Attachment 15), presented testimony in favor of **HB 2927**, noting how it provides for a defined starting point for the collection of municipal franchise fees by the electric or gas utility for an annexed area.

Questions were asked by Representative: Tom Sloan and Carl Holmes.

Hearing on **HB 2927** was closed.

Chairman Holmes noted that tomorrow would be the last day to work bills before the turnaround deadline. He asked committee members if there were any bills out there besides these four bills that were of interest by anyone to be worked on by the committee. None were suggested.

CONTINUATION SHEET

MINUTES OF THE House Utilities Committee at 9:00 A.M. on February 20, 2006 in Room 231-N of the Capitol.

The next meeting is scheduled for Tuesday February 21, 2006.

Meeting Adjourned.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 20, 2006

NAME	REPRESENTING
PAUL MCCOY	TRANS-ELECT, INC.
Steve Miller	Sunflower Electric
Dave Hottel	KFC
Phil Wages	KEPCO
Joe Dick	KC BPU
Dan Springs	Curh
Larry W. Hollaway	KCC
Mark Schreiber	Westar Energy
Tom Stechl. K	Westar Energy
TOM DAY	KCC
HARRY BERG	MIDWEST ENERGY
ROGER RANKALL	KEPL
Ben Cleaves	DOB
Paul Johnson	Ks. Catholic Conference
Ryan Vincent	Ks. Housing Resources Grp.
Norma Phillips	KS Housing Resources Corp.
Charles Benjamin	KS Sierra Club
BRUCE SOVEAN	CITIZEN

ANNIE KUETHER

REPRESENTATIVE, FIFTY-FIFTH DISTRICT
 SHAWNEE COUNTY
 1346 SW WAYNE AVE.
 TOPEKA, KANSAS 66604-2606
 (785) 232-0717

STATE CAPITOL—ROOM 279-W
 TOPEKA, KS 66612-1504
 (785) 296-7669
 1-800-432-3924
 (SESSION ONLY)



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS

RANKING DEMOCRAT: UTILITIES

MEMBER: ECONOMIC DEVELOPMENT

HIGHER EDUCATION

GENERAL GOVERNMENT AND
 COMMERCE BUDGETNCSL: ENERGY AND ELECTRIC
 UTILITIES COMMITTEE

KANSAS FILM COMMISSION

FRIENDS OF CEDAR CREST

February 20, 2006
 House Utilities Committee
 Testimony: House Bill 2932

Good morning, Committee members. Thank you for allowing me to present my thoughts to you regarding HB 2932.

As you well know, the winds of change are coming. And they should. I am a strong proponent of this change...especially wind. This might surprise you, since I may not have seemed that way in committee. Care has to been given with how we make these changes. And to me, this is what the intent of this legislation is about. It plugs a loophole.

We have had testimony in front of us telling us how good wind farms are for Kansas and, yes, I think that, too. Some also espouse the glory of countries like Scotland and Germany doing business with us. While I think that doing business with other countries is great, we are discussing our land...Kansas land...home and properties. And we need to do this the right way.

The Elk River Wind Farm is a reality. It is also something that has split landowners and neighbors apart. This project did not have a public hearing...it didn't have to. It only had

HOUSE UTILITIES

FAX: (785) 296-0251 E-MAIL: KUET@AOL.COM

DATE: 2/20/06

ATTACHMENT 1

to go before the KCC, which deemed it to be a "public utility".

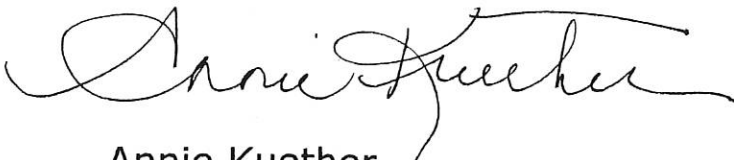
An unregulated generation facility (such as the above mentioned), which is not in the rate base of a regulated utility, can currently go before the KCC and ask for a certificate of authority to become a "public utility". This gives the new group the power of eminent domain for siting of transmission (siting of generation through the use of eminent domain, turbines, generators, towers for wind farms is already in the statute).

It does not interfere with or effect any regulated utility's ability to use eminent domain with regard to transmission or generation. It will not have any effect on wind projects at Montezuma (FPL), KCP&L's project to be built at Spearville or Beaumont (Elk River). In other words, it does not have any effect on the authority of Westar, Empire, KCP&L or Aquila.

The big question is: Do we, the state of Kansas, want to allow private companies to buy land in Kansas, and have the power of eminent domain for their own purposes?

I ask for your support for House Bill 2932.

Thank you.



Annie Kuether
55th District - Topeka

Testimony in support of House Bill 2932
before the Kansas House of Representatives Committee on Utilities
February 20, 2006

Carol Duffy McDowell and John C. Peterson
on behalf of

Tallgrass Ranchers Association, and
Flint Hills Tallgrass Prairie Heritage Foundation

Chairman Holmes and Members of the Committee,
The Tallgrass Ranchers Association is dedicated to preserving ranching heritage, and the beauty, natural integrity and unique landscape of the Kansas tallgrass prairie, while respecting the property rights of others. The Flint Hills Tallgrass Heritage Foundation is a not-for-profit corporation. It's mission is to promote appreciation, conservation and stewardship of the Flint Hills regional ecosystem as a valuable and irreplaceable national resource and treasure.

Currently under KSA 2005 Supp. 66-104, Sec.1(e), a new electric generation facility, like a merchant plant or a wholesale industrial wind complex, has the option of being classified by the Kansas Corporation Commission as a "public utility", which entitles it to exercise the power of eminent domain to condemn private property for its use.

This is true even if the facility is a private enterprise, sells no energy to the public, sells only to one customer, is not domiciled in Kansas, and is not regulated nor in the rate base of any entity regulated by the Kansas Corporation Commission.

HB 2932 amends KSA 2005 Supp. 66-104, Sec.1(e), and precludes a new electric generation facility from qualifying as a "public utility", unless it is in the rate base of: a) an electric public utility subject to rate regulation by the Kansas Corporation Commission; b) any cooperative defined by KSA 17-4603, or any nonstock member-owned cooperative incorporated in Kansas; or c) a municipally owned or operated electric utility. By eliminating its option to be classified as a "public utility", HB 2932 precludes such a facility from exercising the power of eminent domain as a "public utility".

HB 2932 does not effect public utilities whose rates are regulated by the Kansas Corporation Commission. It does not effect the authority of regulated public utilities, such as Westar, Empire, Aquilla and KCP&L, to exercise the power of eminent domain.

HB 2932 does not effect the existing wind energy complexes at Montezuma (FPL) and at Beaumont (Elk River), nor does it effect KCP&L's planned wind energy complex at Spearville, Kansas.

HB 2932 does not effect any future electric generation facilities which are in the rate base of a regulated public utility, a cooperative, or a municipal electric utility, as defined by statute.

HOUSE UTILITIES

DATE: 2/20/06
ATTACHMENT 2

The need for HB 2932 arose out of the development of the Elk River wind power complex near Beaumont in Butler County, Kansas.

The Elk River wind power complex is owned by PPM Energy, Inc., (Portland, Oregon), which in turn is owned by ScottishPower, a company headquartered in Scotland. (APPENDIX A)
The Elk River complex is comprised of 100 turbines, producing a maximum of 150 megawatts of electric energy. All of the energy it produces is sold at wholesale to one customer, the Empire District Electric Company. Empire, based in Joplin, Missouri, sells electric energy at retail to customers in southeast Kansas, Oklahoma, Missouri and Arkansas. (APPENDIX B)

Elk River purchased leases for the all the land on which it placed its turbines, but was unable to reach agreements with landowners to lease land for transmission lines to connect its complex to the grid.

On December 2, 2004, Elk River Windfarm, LLC, of Charlottesville, Virginia, applied to the Kansas Corporation Commission for a limited Certificate of Public Convenience, and exercised its option to be certified as a “public utility” under KSA 66-104 Sec.1(e). (APPENDIX C)

On December 20, 2004, without public notice, and without a public hearing, the Kansas Corporation Commission granted Elk River Windfarm’s application, and certified it as a Kansas “public utility” under KSA 66-104(e), giving Elk River Windfarm the power of eminent domain to condemn private land it had failed to acquire through agreement. (APPENDIX D)

The definition of “public utility” permitted by KSA 66-104 Sec.1(e), and relied upon by the Kansas Corporation Commission, is inconsistent with the commonly understood meaning of the term, which includes requirements that the entity be publicly regulated, and that it offer its commodity to the public on a nondiscriminatory basis. The Elk River complex is a private enterprise, a monopoly, not regulated by the Kansas Corporation Commission, not in the rate base of any regulated public utility; and it clearly does not offer the energy it produces for public purchase.

In April 6, 1999, then Attorney General Carla Stovall issued an Opinion at the request of Chairman Carl Holmes, in which she addressed the question of excluding from the definition of “public utility”, facilities not included in the rate base of a regulated public utility, cooperative or municipal public utility. She wrote in part:

“The element of government regulation appears to be absent from the type of entity sought to be excluded from the definition of public utility. We assume that any entities meeting this definition would not be monopolistic, but rather competitive. If it is a competitive industry, or an entity that generates electricity for its own use or that of just one customer, presumably there would be no need to require that the service or commodity be offered on a nondiscriminatory basis to everyone who applies to purchase the service or commodity. **As far as we can tell, no franchise or eminent domain powers will be granted the type of entity in question; if the entity needs to use transmission lines, it will have to contract to use those already in existence or otherwise acquire the land on which any lines are installed.**” (APPENDIX E)

When the Legislature adopted KSA 66-104, Sec.1(e), it could not reasonably have foreseen the use of this provision by a private, unregulated large-scale industrial wind complex to acquire the power of eminent domain.

HB 2932 corrects this problem, and conforms KSA 66-104 Sec.1(e) to the public interest.

We urge the Committee to recommend HB 2932 favorably for passage, and thank you for this opportunity to present testimony.

Respectfully submitted,
on behalf of:

Tallgrass Ranchers Association, and
Flint Hills Tallgrass Prairie Heritage Foundation

Carol Duffy McDowell
800 SW Jackson St, Suite 914
Topeka, Kansas 66612
785-235-2324

John C. Peterson
212 SW Eighth Ave, Suite 200
Topeka, Kansas 66603
785-233-1903

APPENDIX A: Chart showing the corporate ownership of PPM Energy.

APPENDIX B: December 14, 2004, press release by PPM Energy announcing its Elk River Wind Power Project.

APPENDIX C: December 2, 2004, Application, by Elk River, LLC, to be certified as a public utility by the Kansas Corporation Commission.

APPENDIX D: December 20, 2004, Certificate, by the Kansas Corporation Commission, permitting Elk River, LLC to operate as a public utility.

APPENDIX E: April 6, 1999, Attorney General Opinion No. 99-21, regarding Constitution of the State of Kansas-Finance and Taxation-System of Taxation; Classification; Definition of Public Utility; Exclusion of Property Used in the Generation, Marketing and Sale of Electricity.

APPENDIX A

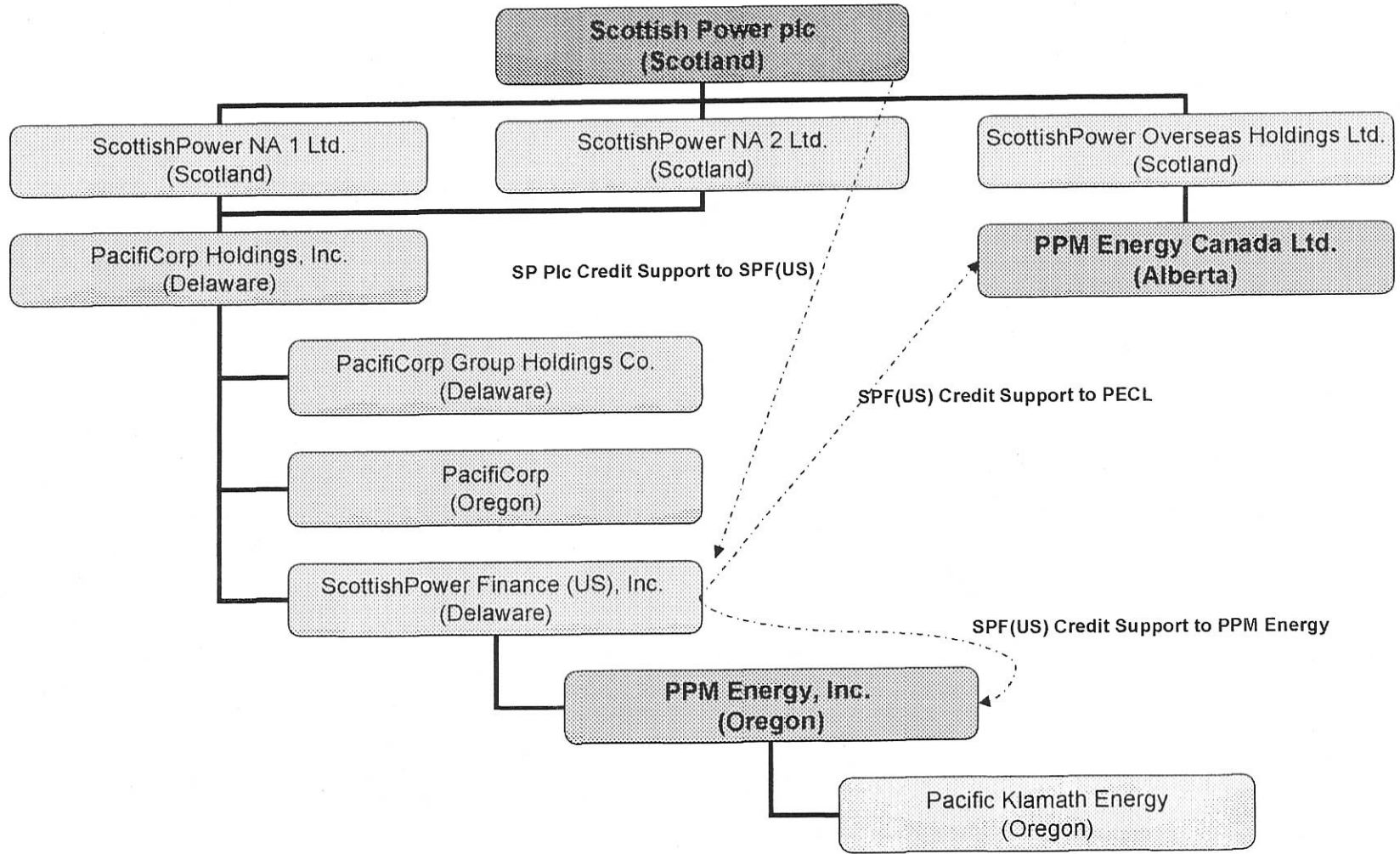
Chart: showing the corporate ownership of PPM Energy

Testimony in support of House Bill 2932
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Corporate ownership of PPM Energy and PPM Energy Canada Ltd. (Post-restructuring)



Scottish Power Finance (US) Inc. Corporate Overview

Scottish Power Finance (US) Inc. (SPF(US)) is a wholly-owned, indirect subsidiary of ScottishPower plc (SP plc). SPF(US) is incorporated under the laws of the State of Delaware. SPF(US) is the new credit support provider for PPM Energy, Inc. (PPM) and PPM Energy Canada Ltd. (PECL).

At present, SPF(US) holds no assets and no liabilities, but is backed by the full support of SP plc, which has provided an unlimited guaranty to SPF(US). Standard & Poor's (S&P) and Moody's Investor Service (Moody's) have reviewed this guaranty and on the basis of SP plc's unconditional support for SPF(US), S&P and Moody's have issued Senior Unsecured Credit Ratings for SPF(US) of BBB+/Baa1 and S&P has issued a corporate credit ratings of A-.

Currently, PPM Energy, Inc. remains a wholly-owned subsidiary of PacifiCorp Holdings, Inc. (PHI). The transfer of PPM under the direct ownership of SPF(US) has been approved by the SP plc Board of Directors and the PHI Board of Directors. There will be no change in the beneficial ownership or control of PPM.

PECL is owned directly by ScottishPower Overseas Holding Ltd.



APPENDIX B

December 14, 2004, press release by PPM energy
announcing its Elk River Wind Power Project.

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Carol Duffy McDowell and John C. Peterson
on behalf of

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Flint Hills Tallgrass Prairie Heritage Foundation



CONTACT:
Jan Johnson, PPM, (503) 796-7070

December 14, 2004
FOR IMMEDIATE RELEASE

PPM announces 150 MW Kansas wind farm

PORTLAND, Ore. – PPM Energy, Inc. (PPM), ScottishPower's (NYSE: SPI) competitive US energy business, today announced that it will build and own the 150-megawatt Elk River Wind Power Project located in Butler County, Kansas, near Beaumont. The Empire District Electric Company (NYSE:EDE) has signed a 20-year contract with PPM to purchase the energy generated at the Elk River project, developed by Greenlight Energy, Inc. of Charlottesville, Virginia.

In making the announcement, Brad Beecher, Vice President – Energy Supply, stated, "Today's contract signing is a major step in ensuring our customers benefit from a balanced mix of generation options. With the improvements that have been made in wind generation technology and the production tax credits that were recently enacted by Congress and signed into law by President Bush, wind energy provides price stability, is environmentally friendly, and is economical for our customers."

"We are pleased to be building our first wind power plant in Kansas, the state with the third most robust wind resource in the nation," said Terry Hudgens, Chief Executive Officer of PPM. "The Elk River Project is the third we have announced so far that is expected to go into commercial operation in 2005 and we look forward to additional growth and geographic expansion in 2005."

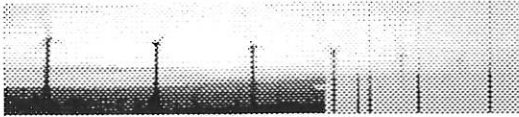
Based in Joplin, Missouri, The Empire District Electric Company is an investor-owned utility providing electric service to approximately 157,000 customers in southwest Missouri, southeast Kansas, northeast Oklahoma, and northwest Arkansas. The Company also provides fiber optic and Internet services, customer information software services, utility industry technical training, and has an investment in close-tolerance, custom manufacturing. Empire provides water service in three incorporated communities in Missouri.

Portland, Oregon-based PPM Energy is part of the ScottishPower group of companies. With a portfolio of more than 830 MW of wind power currently in operation in seven states, PPM Energy has a goal of bringing 2,300 MW of new wind power to market by 2010. PPM Energy balances its supply portfolio with sales to wholesale customers, placing almost all of its output in long-term contracts. Major customers include the federal Bonneville Power Administration, the cities of Seattle, Sacramento, Pasadena, Anaheim, investor-owned utilities such as Alliant Energy and Xcel Energy and cooperatives such as Minnesota's Great River Energy. PPM Energy also has about 800 megawatts of clean gas resources under its control to give customers a wide range of options for adding environmentally responsible energy to their portfolios. The U.S. Environmental Protection Agency, the U.S. Department of Energy, and the Center for Resource Solutions honored PPM recently for significantly advancing development of the green power market.



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- > what we do
- > who we serve
- > resources
- > care



what we do

what we do

- structured power
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- wind power development
- natural gas
- energy/asset management
- fuel procurement
- success stories
- map of facilities

Success Stories By Location — Map of Facilities

Click to select.



APPENDIX C

December 2, 2004, Application, by Elk River, LLC, to be certified as a public utility by the Kansas Corporation Commission

Testimony in support of House Bill 2932
before the Kansas House of Representatives Committee on Utilities
February 20, 2006

Carol Duffy McDowell and John C. Peterson
on behalf of

Tallgrass Ranchers Association, and
Flint Hills Tallgrass Prairie Heritage Foundation

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of the Application of)
Elk River Windfarm, LLC for a)
Certificate of Public Convenience to)
Transact the Business of an Electric)
Public Utility in the State of Kansas)

Docket No. 05-ERWE-499-COC

STATE CORPORATION COMMISSION

DEC 02 2004

APPLICATION

Susan K. Butte Docket Room

COMES NOW Elk River Windfarm, LLC (hereinafter "Applicant") and for its Application for a Certificate of Public Convenience from the State Corporation Commission of the State of Kansas ("KCC") pursuant to K.S.A. 66-131, and any and all other applicable Kansas statutes and regulations, states and alleges as follows:

1. Applicant is a limited liability company, organized and existing under the laws of the State of Kansas and in good standing. (See Exhibit A attached hereto).

2. Applicant proposes to construct and operate a wind power project in Butler County, Kansas, at a location near Beaumont, Kansas. Specifically, Applicant proposes to design, engineer, and construct a wind power project in Butler County, Kansas, that will consist of 100 turbines, that when in operation, will produce 150 megawatts of electric energy.

3. Although the project is qualified for exemption under the definition of public utility set forth in K.S.A. 66-104(e), Applicant, at its option, currently seeks certification as a public utility. Specifically, Applicant seeks a limited Certificate herein, to permit Applicant to construct and operate the described wind power project and to sell at wholesale the output of electric energy from such wind power project to Empire District

Electric Company, a Kansas corporation. Applicant requests limited Certificate authority for the sale and transmission of electric energy in wholesale transactions, and has no current plans to offer retail electric service in the State of Kansas.

4. The wind power project, including both turbines and transmission facilities, of Applicant is situated in Butler County, Kansas at the locations set forth on the map attached hereto as Exhibits B-1 and B-2. The property descriptions for the land comprising the project site are set forth on Exhibit C attached hereto. Applicant has obtained all necessary siting authority and permits for the project from Butler County.

5. Applicant has sufficient resources of capital to construct and operate its described wind power project. Applicant has, or has access to, any and all necessary design, engineering, construction, and operational experience and expertise sufficient for the efficient and safe operation of its proposed wind power project in Butler County, Kansas.

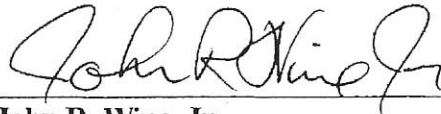
6. Applicant's project enhances the public convenience of the citizens of the State of Kansas, as demonstrated in part by the market demand for Applicant's electric energy produced at its wind power project. The entire output of Applicant's wind power project will be purchased by Empire District Electric Company.

7. Applicant has served this date a copy of this Application to all public electric utilities located in the same service territory as the project in Butler County, Kansas, as evidenced by Applicant's Certificate of Service attached hereto.

8. In order for the Applicant to procure the equipment and services necessary for construction and operation of the project in a timely fashion, the Applicant requests an expedited decision.

WHEREFORE, Applicant respectfully requests that the Kansas Corporation Commission expeditiously issue to it a Certificate of Convenience and Necessity, providing any and all necessary Certificate authority to Applicant to construct and operate its wind power project in Butler County, Kansas, to operate the described electric transmission facilities related thereto, and to engage in the sale of electric energy at wholesale in the State of Kansas.

Respectfully submitted,




John R. Wine, Jr.
Kansas Bar #10016
Attorney at Law
410 N. E. 43rd Street
Topeka, Kansas 66617
(785) 220-7676

Attorney for Elk River Windfarm, LLC

VERIFICATION

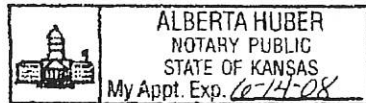
STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

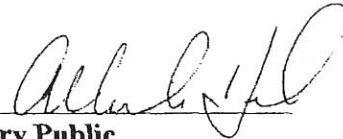
I, John R. Wine, Jr., being first duly sworn, state that the above and foregoing APPLICATION is true and accurate to the best of my knowledge, information and belief.



John R. Wine, Jr.

Subscribed and sworn to before me this 20 day of December, 2004





Notary Public

CERTIFICATE OF SERVICE

I hereby certify that copies of the APPLICATION was served on the 2nd day of December, 2004, except as otherwise noted, by depositing in the United States mail, postage prepaid, addressed to the following:

Susan Duffy
Executive Director
Kansas Corporation Commission
1500 Southwest Arrowhead Road
Topeka, Kansas 66604

Susan Cunningham
General Counsel
Kansas Corporation Commission
1500 Southwest Arrowhead Road
Topeka, Kansas 66604

Larry Holloway
Chief of Energy Operations
Kansas Corporation Commission
1500 Southwest Arrowhead Road
Topeka, Kansas 66604

Gary Dawdy
Utilities Division
Kansas Corporation Commission
1500 Southwest Arrowhead Road
Topeka, Kansas 66604

Dale Short
Butler County REC
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El Dorado, Kansas 67042

Kelly B. Harrison
Vice President - Regulatory
Westar Energy
P.O. Box 889
Topeka, Kansas 66601-0889
Phone: (785) 575-6300



John R. Wine, Jr.
Attorney for Elk River Windfarm, LLC

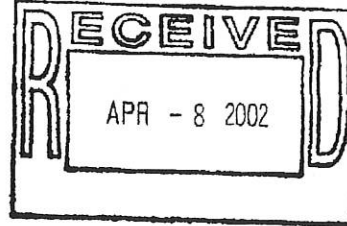
RON THORNBURGH
Secretary of State



First Floor, Memorial Hall
120 SW 10th Ave.
Topeka, KS 66612-1594
(785) 296-4564

April 03, 2002

STATE OF KANSAS



WILLIAMS MULLEN
NELSON S TEAGUE, JR.
401 EAST MARKET ST., STE 101
CHARLOTTESVILLE VA 22902

RE: ELK RIVER WINDFARM, LLC

ID. # 3303906 (USE IN ALL CORRESPONDENCE WITH OUR OFFICE)

Enclosed is a certified copy of your Kansas limited liability company articles of organization. Your limited liability company's identification number is at the top of this page. The identification number should be used in all correspondence with this office.

Every limited liability company must file an annual report with this office. However, if a limited liability company has not been organized for six months prior to its first tax year end, a report is not required for that year. If your limited liability company operates on a tax period other than the calendar year, you must notify our office in writing prior to December 31.

If an annual report is required, it must be filed when your limited liability company files its Kansas income tax return. If your limited liability company applies to the Internal Revenue Service for an extension of its deadline for filing its income tax return, an extension for the annual report will be granted by our office provided that a copy of the IRS extension form is filed with this office within 90 days after the due date of the annual report.

skh

Administration: (785) 296-0498
FAX: (785) 368-8028
Corporations: (785) 296-4564
FAX: (785) 296-4570

Web Site:
www.kssos.org
e-mail:
kssos@kssos.org

Elections: (785) 296-4561
FAX: (785) 291-3051
UCC: (785) 296-1849
FAX: (785) 296-3659

Exhibit A

Kansas Secretary of State
Kansas Limited Liability Company Articles of Organization

DL

All information must be completed or this document will not be accepted for filing.

1. Name of the limited liability company (must include "limited liability company," "limited company," "LLC" or "LC"):

Elk River Windfarm, LLC

2. Address of registered office in Kansas:
(Address must be a street address. A post office box is unacceptable.)

200 S.W. 30th Street

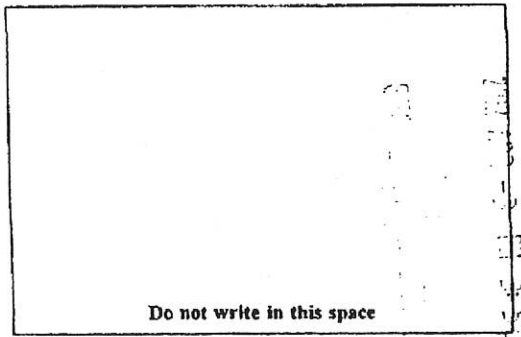
Street Address

Topeka Kansas 66611

City State Zip Code

Name of resident agent at the above address:

Corporation Service Company



PROFESSIONAL LIMITED LIABILITY COMPANIES ONLY: (See instruction #1)

If the LLC is organized to exercise the powers of a professional association, state the professional purpose of the LLC.

I declare under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct.

Executed on the 26th of March, 2002.
Day Month Year

Melroy S. Legeve Jr.
Organizer

LLC Mailing Information

Where would you like the Secretary of State's office to send official mail? If no address is given, the mail will be sent to the LLC's registered office.

401 E. Market St., Suite 210 Charlottesville, VA 22902
Street Address City State Zip Code

The mail should be addressed to the following named individual:

S. A. Reisky De Dubnic

I hereby certify this to be a true and correct copy of the original on file.
Certified on this date: 4-23-02
Ron Thornburgh, Secretary of State

APPENDIX D

December 20, 2004, Certificate, by the Kansas Corporation
Commission, permitting Elk River, LLC, to operate as a public
utility

Testimony in support of House Bill 2932
before the Kansas House of Representatives Committee on Utilities
February 20, 2006

Carol Duffy McDowell and John C. Peterson
on behalf of

Tallgrass Ranchers Association, and
Flint Hills Tallgrass Prairie Heritage Foundation

KANSAS

CORPORATION COMMISSION

KATHLEEN SEBELIUS, GOVERNOR

BRIAN J. MOLENEAR, CHAIR

ROBERT E. KREHBIEL, COMMISSIONER

MICHAEL C. MOFFET, COMMISSIONER

MEMORANDUM

December 16, 2004

In the Matter of the Application of Elk River Windfarm, LLC for a)
Certificate of Public Convenience to Transact the Business of an) 05-ERWE-499-COC
Electric Public Utility in the State of Kansas.)

TO: Chair Moline
Commissioner Krehbiel
Commissioner Moffet

FROM: Gary Dawdy

DATE SUBMITTED TO LEGAL: _____

DATE SUBMITTED TO COMMISSIONERS: _____

This application has been filed by Elk River Windfarm, LLC (Applicant) seeking a certificate to construct and operate a wind power project in the southeastern part of Butler County, Kansas. Applicant seeks authority to construct the necessary facilities and to make wholesale sales of energy from the project.

Although the project is qualified for exemption under the definition of public utility set forth in K.S.A. 66-104(e), Applicant at its option seeks certification as a public utility.¹

The project is planned to include 100 turbines and when in full operation will provide 150 megawatts of electric energy. Applicant plans to connect the project with a 345 KV electric transmission line located near the proposed project. The 345 KV line is operated by Kansas Gas and Electric Company. Applicant plans to sell at wholesale, all of the electric energy produced by the project, to Empire District Electric Company.

¹ It is not clear under K.S.A. 66-104(e) whether the Commission may grant a future request from the Applicant should the Applicant decide it no longer desires public utility certification.

The Governor's office has recently delineated an area located within the Flint Hills where wind development is not being encouraged. This project is to be located just to the south of this area, placing it outside the delineated area.

Increased electricity production would enhance the availability and affordability of power to the benefit of the Kansas public generally. Interconnection with the Kansas electric grid is necessary to achieve such benefit. The issuance of the certificate and the powers and obligations associated with it would serve the public convenience and necessity.

RECOMMENDATION:

A limited certificate be issued to Elk River, which grants authority as follows:

1. Limited certificate authority to sell electric energy produced by the project at wholesale only. The project area is to be certificated as delineated in Exhibit C attached to the application.
2. Certificate authority for Transmission Rights Only along two optional routes for the electric transmission line being planned to connect the project to the Kansas Gas and Electric Company 345 KV transmission line. The routes are reflected in Exhibits B-1 and B-2 attached to the application.

cc: Don Low
Larry Holloway
Susan Cunningham
Matt Tomc
Susan Duffy
PIO

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

7034.12.20 16:45:56
Kansas Corporation Commission
By Susan K. Jaffe

Before Commissioners: Brian J. Moline, Chair
Robert E. Krehbiel, Commissioner
Michael E. Moffet, Commissioner

In the Matter of the Application of Elk River Windfarm, LLC) Docket No.
for a Certificate of Public Convenience to Transact the) 05-ERWE-499-COC
Business of an Electric Public Utility in the State of Kansas.)

CERTIFICATE

NOW, there comes on for consideration and determination by the State Corporation Commission, of the State of Kansas (Commission) the application of Elk River Windfarm, LLC (Applicant) as captioned above, for a Limited Certificate of Convenience and Necessity to construct and operate a wind power project (project) in a portion of Butler County. After giving due consideration to the application and being fully advised in the premises, the Commission finds and concludes that:

1. Although the project planned by Applicant is qualified for exemption under K.S.A. 66-104(e), Applicant, at its option, seeks a limited certificate to operate as an electric public utility.
2. The application in the instant docket was filed with this Commission on the 2nd day of December 2004. There have been no interventions. A public hearing was not held on the instant application.
3. Applicant seeks a limited certificate in this application to operate a wind power project in Butler County near Beaumont, Kansas. The project consists of approximately 100 wind turbines and attendant electric facilities as described and shown on maps and exhibits attached to the application. Applicant requests authority to sell at wholesale the output of electric energy from the project to Empire District Electric Company (Empire). Applicant states it has no current plans to offer retail electric service in Kansas.

4. Applicant requests a limited certificate to transact the business of an electric public utility in the territory and to the extent described as follows:

The property is all of the following tracts or parcels of land, situated in the County of Butler, State of Kansas, more particularly described as follows:

BUTLER COUNTY

- The East 1/2 of Section 32, Township 28 South, Range 8 East;
- All of Section 33, Township 28 South, Range 8 East;
- All of Section 4, Township 29 South, Range 8 East;
- All of Section 5, Township 29 South, Range 8 East;
- The East 1/2 of the Northeast 1/4 and the East 1/2 of the Southeast 1/4 of Section 16, Township 28 South, Range 8 East;
- The South 1/2 of the Southeast 1/4 of Section 29, Township 28 South, Range 8 East;
- All of Section 21, Township 28 South, Range 8 East;
- All of Section 28, Township 28 South, Range 8 East;
- The Southeast 1/4 of Section 17, Township 28 South, Range 8 East;
- Lots fifteen (15), sixteen (16), seventeen (17) and eighteen (18) of Section 31, Township 28 South, Range 8 East;
- Lots one (1), two (2), three (3), four (4) and eighteen (18) of Section 6, Township 29 South, Range 8 East;
- The South 1/2 of the Northeast 1/4 and the Southeast 1/4 of Section 6, Township 29 South, Range 8 East;
- The East 1/2 and Lots one (1), two (2), fifteen (15), sixteen (16), seventeen (17) and eighteen (18) of Section 19, Township 28 South, Range 8 East;
- The Southeast 1/4 of Section 18, Township 28 South, Range 8 East;
- The Southwest 1/4 of Section 17, Township 28 South, Range 8 East;
- All of Section 20, Township 28 South, Range 8 East;
- All of Section 29 (less the South 1/2 of the Southeast 1/4), Township 28 South, Range 8 East;
- The West 1/2 of Section 32, Township 28 South, Range 8 East;
- The East 1/5 of Section 30, Township 28 South, Range 8 East; and
- The East 1/5 of Section 31, Township 28 South, Range 8 East.

In addition, Applicant requests transmission rights only in and along the two optional routes for a 345 KV electric transmission line and other attendant facilities necessary to connect the wind power project with a nearby Kansas Gas and Electric Company 345 KV electric transmission line shown on maps marked as Exhibit B-1 and B-2 of the application herein

5. There are two other electric suppliers certificated in the area described in paragraph 4 above. Westar and Butler have been provided notice of this application and have filed no objection.

6. Increased electricity production would enhance the availability and affordability of power to the benefit of the Kansas public generally. Interconnection with the Kansas electric grid is necessary to achieve such benefit. The issuance of the certificate, including the authorities and obligations associated with it would serve the public convenience and necessity.

7. Because the public convenience will be promoted by permitting Applicant to transact the business of an electric wind power generation utility in the territory and to the extent described in previous findings herein, the application should be granted and a limited certificate issued in accordance with the provisions of K.S.A. 66-131.

IT IS, THEREFORE, BY THE COMMISSION CONSIDERED AND CERTIFIED:

That the application in the instant docket is granted and Elk River Windfarm, LLC is permitted to transact the business of an electric wind power generation utility in the territory described in paragraph 4 above.

A party may file a petition for reconsideration of this order within 15 days of service. If the order is mailed, service is made upon mailing and three (3) days are added to the above time period.

The Commission retains jurisdiction of the subject matter and parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED AND CERTIFICATED.

Dated: **DEC 20 2004**

Moline, Chair; Krehbiel, Com.; Moffet, Com.

ORDER MAILED

DEC 21 2004

 Executive Director
EXECUTIVE DIRECTOR

SEAL

GDD:ram

APPENDIX E

April 6, 1999, Attorney General Opinion No. 99-21, regarding
Constitution of the State of Kansas-Finance and Taxation-
System of Taxation; Classification; Definition of Public Utility;
Exclusion of Property Used in the Generation, Marketing and
Sale of Electricity

Testimony in support of House Bill 2932
before the Kansas House of Representatives Committee on Utilities
February 20, 2006

Carol Duffy McDowell and John C. Peterson
on behalf of

Tallgrass Ranchers Association, and
Flint Hills Tallgrass Prairie Heritage Foundation

April 6, 1999

ATTORNEY GENERAL OPINION NO. 99-21

The Honorable Carl Dean Holmes
Chairman, House Utilities Committee
State Capitol, Room 115-S
Topeka, Kansas 66612-1504

Re: Constitution of the State of Kansas-Finance and Taxation-System of
Taxation; Classification; Definition of Public Utility; Exclusion of
Property Used in the Generation, Marketing and Sale of Electricity

Taxation-Public Utilities-Definition; Constitutionality of Excluding
Property of Certain Independent Power Producers

Synopsis: The Legislature may, under Article 11, Section 1 of the Kansas
Constitution, define the term "public utility" for purposes of property
tax classification, as long as the legislative definition remains
consistent with the commonly understood meaning of the term.
Common definitions of the term "public utility" in 1985 and 1986, the
years the Classification Amendment was framed and adopted,
generally included characteristics such as provision of an essential
service or commodity to the public on a nondiscriminatory basis and
having a franchise, eminent domain powers or other ability to acquire
and use private property for a public purpose. Cited herein: K.S.A.
1998 Supp. 66-104; K.S.A. 79-5a01; Kan. Const., Art. 11, § 1; 1999
H.B. 2400, § 13; L. 1986, Ch. 371, § 1; L. 1983, Ch. 314, § 1; L. 1969,
Ch. 434, § 1.

Dear Representative Holmes:

You request our opinion regarding the authority of the Legislature to statutorily define
certain property as commercial and industrial, as opposed to public utility property, for
purposes of property tax classification. Due to time constraints, we initially responded
by letter dated March 16, 1999. As per your request, we now address the question with
a formal opinion.

The property in question is that which is defined in 1999 House Bill No. 2400 (H.B.
2400) as:

"[P]roperty used solely in the generation, marketing and sale of electricity
generated by an electric generation facility no portion of which is included in

the rate base of: (1) An electric public utility that is subject to rate regulation by the state corporation commission; (2) a cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or a nonstock member-owned cooperative corporation incorporated in this state; or (3) a municipally owned or operated electric utility."⁽¹⁾

The bill would amend the definition of "public utility" found in K.S.A. 1998 Supp. 66-104 to include the following language:

"The term 'public utility' shall not include any activity of an otherwise jurisdictional entity as to the generation, marketing and sale of electricity generated by a nonnuclear electric generation facility construction no portion of which is included in the rate base of: (1) An electric public utility that is subject to rate regulation by the state corporation commission; (2) any cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or any nonstock member-owned cooperative corporation incorporated in this state; or (3) a municipally owned or operated electric utility."⁽²⁾

The definition of "public utility" found in K.S.A. 79-5a01 would also be amended to exclude:

"the business of generating, marketing and selling electricity generated by a nonnuclear electric generation facility no portion of which is included in the rate base of: (A) An electric public utility that is subject to rate regulation by the state corporation commission; (B) a cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or a nonstock member-owned cooperative corporation incorporated in this state; or (C) a municipally owned or operated electric public utility."⁽³⁾

Article 11, Section 1 of the Kansas Constitution provides for the classification of both real and personal property, and fixes the assessment rate for each subclass.⁽⁴⁾ Thus, nonexempt property that falls within the subclass of "public utility real property . . ." or "public utility tangible personal property . . ." must be assessed at the rate of 33% of its value, whereas property falling within the subclass of "real property used for commercial and industrial purposes . . ." or "commercial and industrial machinery and equipment . . ." must be assessed at 25%.⁽⁵⁾ Your question is whether the Legislature may define the term "public utility" so as to exclude certain property from application of the 33% assessment rate.

This question was addressed by then Attorney General Robert T. Stephan in Attorney General Opinion No. 93-142. The Opinion concluded that because the term "public utility" is not defined in Article 11, Section 1 of the Constitution, and because that Section specifically authorizes the Legislature to define by law what property is in each subclass, there is some room for legislative interpretation of what is meant by the term "public utility" as used in Article 11, Section 1. "However, any legislative definition of a term used in the constitution must be within reason and must conform to the commonly understood meaning of the term, as intended by the framers of the constitutional provision and the people adopting it. . . . The legislature may not grant partial exemptions under the guise of improper definitions."⁽⁶⁾ The Opinion then examined

definitions for the term "public utility" that existed at the time the Classification Amendment was framed and adopted in 1985-1986. The American Heritage Dictionary defined the term at that time as "[a] private business organization, subject to government regulation, that provides an essential service or commodity, such as water, electricity, transportation, or communication, to the public."⁽⁷⁾ Black's Law Dictionary defined the term as "[a] privately owned and operated business whose services are so essential to the general public as to justify the grant of special franchises for the use of public property or of the right of eminent domain, in consideration of which the owners must serve all persons who apply, without discrimination. It is always a virtual monopoly."⁽⁸⁾ In addition to these definitions discussed in Attorney General Opinion No. 93-142, we have found case law definitions that would have been considered common knowledge at the time the Classification Amendment was adopted. In determining that a common carrier was a "public utility" for purposes of the statute relating to collection of delinquent taxes owed by public utilities operating in not more than four counties, the Court found:

"In the absence of expressed intention otherwise it must be assumed that the legislature here used the term 'public utility corporation' in its broad and general meaning. . . . The essential characteristic is that the utility be one which is dedicated to public use, without unreasonable discrimination. From 51 C.J. 4 we quote:

"A "public utility" has been described as a business organization which regularly supplies the public with some commodity or service, as electricity, gas, water, transportation, or telephone or telegraph service. . . . the distinguishing characteristic of a public utility is the devotion of private property by the owner or person in control thereof to such a use that the public generally, or that part of the public which has been served and has accepted the service, has a right to demand that the use or service, so long as it is continued, shall be conducted with reasonable efficiency and under proper charges."⁽⁹⁾

Two cases of limited interest (because they interpret the definition in K.S.A. 66-104, which the Court has found to be of limited relevance in determining what a public utility is for tax purposes⁽¹⁰⁾) are *State ex rel. Grant v. City of Coffeyville*⁽¹¹⁾ and *City of Cimarron v. Midland Water, Light & Ice Co.*⁽¹²⁾ In the former the Court held that a producer of natural gas having one customer only, the City of Coffeyville, was not a public utility as then defined by K.S.A. 66-104 because it was "not engaged in general commercial distribution of natural gas, and it does not have a pipe line long enough to bring it within the statutory definition of a public utility."⁽¹³⁾ Conversely, in *Midland Water* the Court concluded that a company "in arranging to supply the [City of Cimarron] with electricity, whether for its own use or to be distributed among its residents, was acting in its character as a public utility" for purposes of regulation by the then public utilities commission.⁽¹⁴⁾ One important factor in this latter case was that the company provided electricity to several other cities as well.⁽¹⁵⁾

While definitions may vary depending on the context in which the term is used, certain characteristics are common to a majority of the definitions expressed above: The service or commodity provided is an essential one that is required to be made available

without discrimination to all who apply; the entity has been granted eminent domain or special franchises for use of public property; the entity is subject to regulation and guaranteed a rate of return on investments; the entity is often monopolistic.⁽¹⁶⁾

We note that K.S.A. 79-5a01 does not, and did not in 1985-1986,⁽¹⁷⁾ include these characteristics in its definition of "public utility" for purposes of State valuation. However, in our opinion, with regard to electricity in particular, the statutory definition's failure to include the characteristics generally thought of as constituting a public utility does not necessarily mean that those factors were consciously excluded from the definition, for in 1969 (when this provision was enacted⁽¹⁸⁾) companies capable of generating, conducting or distributing electric power generally possessed those characteristics; it may have been considered unnecessary to spell them out. As electrical generation and distribution systems continue to evolve, it may at some point become necessary to include such characteristics in the definition in order to maintain consistency with the common understanding of the term "public utility" and avoid capturing within the net of the definition entities not possessing any of those characteristics.

Attorney General Opinion No. 93-142 concluded that "the legislature may, under article 11, section 1 of the Kansas constitution, define and redefine the term 'public utility' as necessary and reasonable to effectuate the makers' and adopters' intent in treating such property differently for purposes of taxation, as long as the legislative definition remains consistent with the commonly understood meaning of the term." We concur with this conclusion and further opine that entities generally having the characteristics listed above can be included by the Legislature in the definition of public utility for property tax purposes and conversely, entities generally having these characteristics cannot by statute be excluded from the definition of public utility for property tax purposes.

With regard to your specific question, the bill would exclude from the K.S.A. 79-5a01 definition of public utility "the business of generating, marketing and selling electricity generated by a nonnuclear electric generation facility no portion of which is included in the rate base of: (A) An electric public utility that is subject to rate regulation by the state corporation commission; (B) a cooperative, member-owned cooperative corporation incorporated in this state; or (C) a municipally owned or operated electric public utility." The element of government regulation appears to be absent from the type of entity sought to be excluded from the definition of public utility. We assume that any entities meeting this definition would not be monopolistic, but rather competitive. If it is a competitive industry, or an entity that generates electricity for its own use or that of just one customer, presumably there would be no need to require that the service or commodity be offered on a nondiscriminatory basis to everyone who applies to purchase the service or commodity. As far as we can tell, no franchise or eminent domain powers will be granted the type of entity in question; if the entity needs to use transmission lines, it will have to contract to use those already in existence or otherwise acquire the land on which any lines are installed. If these are indeed the facts, it appears that an argument can be made that these entities do not possess many of the "trappings" of a public utility and therefore can be excluded from the definition legislatively for property tax purposes. [This argument is particularly compelling for companies that only market or sell electricity as opposed to generating it.] On the other hand, 1985 entities that generated electricity for sale to the public generally were public

utilities and it would not seem unreasonable for the Legislature to continue to define them as public utilities today even if some of the "trappings" are no longer present.

In our opinion, the Legislature has some latitude in the instant situation due to the change of circumstances attending generation and distribution of electric power over the past few years. Legislative acts are presumed constitutional, and must be clearly contrary to the Constitution before the Courts will strike them down.⁽¹⁹⁾ At this point in time, the Legislature may go either way with its definition and may choose to treat these "new" types of entities either as public utilities or not, as long as there is a rational basis for the decision and an argument can be made that they do, or do not, possess the basic characteristics of a public utility so that the definition remains consistent with the common understanding of what that term meant at the time the Classification Amendment was adopted.

In conclusion, the Legislature may, under Article 11, Section 1 of the Kansas Constitution, define the term "public utility" for purposes of property tax classification, as long as the legislative definition remains consistent with the commonly understood meaning of the term. Common definitions of the term "public utility" in 1985-1986, the years the Classification Amendment was framed and adopted, generally included characteristics such as provision of an essential service or commodity to the public on a nondiscriminatory basis and, for such purposes, having a franchise, eminent domain powers, or other ability to acquire private property for a public purpose.

Very truly yours,

CARLA J. STOVALL
Attorney General of Kansas

Julene L. Miller
Deputy Attorney General

CJS:JLM:jm

FOOTNOTES

Click footnote number to return to corresponding location in the text.

¹ H.B. 2400, § 13.

² *Id.* at § 12.

³ *Id.* at § 14.

⁴ *Appeal of ANR Pipeline Co.*, 254 Kan. 534, 542 (1994).

⁵ Kan. Const., Art. 11, § 1(a) Class 1 (5), (6), Class 2 (3), (5).

⁶ Attorney General Opinion No. 93-142. *See also State ex rel. Stephan v. Parrish*, 256 Kan.

746, 762 (1994); *Board of County Commissioners of Wyandotte County v. Kansas Ave. Properties*, 246 Kan. 161 (1990); *Wall v. Harrison*, 201 Kan. 600 (1968); *State ex rel. Stephan v. Martin*, 227 Kan. 456, 468 (1980); *Colorado Interstate Gas Co. v. Board of Morton County Comm'rs*, 247 Kan. 654, 659 (1990).

7. American Heritage Dictionary 1001 (2d college Ed. 1985).

8. Black's Law Dictionary 1108 (5th Ed. 1979).

9. *Board of Commissioners of Edwards County v. Simmons*, 159 Kan. 41, 52 (1944) (emphasis omitted). See also *State v. consumers Warehouse Market*, 183 Kan. 502, 506 (1958), quoting *Nebbia v. New York*, 291 U.S. 502, 531, 54 S.Ct. 505, 78 L.Ed. 940 (1934); *Home Cab Co. v. City of Wichita*, 140 Kan. 451, 454-455 (1934); *State ex rel. Naylor v. Dodge City, M. & T.R. Co.*, 53 Kan. 377, 378-379 (1894); *Whitewater River Watershed Joint Dist. No. 22 v. Butler Rural Elec. Co-op. Ass'n, Inc.*, 6 Kan.App.2d 8, 13-14 (1981).

10. *First Page, Inc. v. Cunningham*, 252 Kan. 593, 600 (1993). See also *In re Appeal of Topeka SMSA Ltd. Partnership*, 260 Kan. 154, 164, 168 (1996); *Simmons*, *supra* note 9.

11. 138 Kan. 909 (1934).

12. 110 Kan. 812 (1922).

13. *Supra*, note 10 at 910-911.

14. *Supra*, note 11 at 814-815.

15. *Id.* at syl. 1.

16. See *First Page, Inc.*, 252 Kan. at 605; *In re Topeka SMSA Ltd.*, 260 Kan. at 165.

17. L. 1983, Ch. 314, § 1; L. 1986, Ch. 371 § 1.

18. L. 1969, Ch. 434, § 1.

19. *State ex rel. Tomasic v. Unified Gov't of Wyandotte County/Kansas City*, 265 Kan. 779, 787 (1998), quoting *State ex rel. Schneider v. Kennedy*, 225 Kan. 13, 20-21 (1978).



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TOM SLOAN

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TOPEKA

HOUSE OF
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AGRICULTURAL & NATURAL
RESOURCES BUDGET
KANSAS WATER AUTHORITY

Testimony on HB 2926 - Independent Electric Transmission Company

February 20, 2006

House Utilities Committee

Mr. Chairman, Members of the Committee: For several years I have worked to provide incentives and stimuli to foster the development of a more robust transmission system in Kansas. To that end, I have successfully sponsored legislation that provide tax incentives, KDFA financing options, regulatory relief, and other measures; organized three Kansas Electric Transmission Summits at which the FERC Chairman (twice) or a Commissioner (once) keynoted and the SPP executives participated in conjunction with Kansas electric utility officers, KCC Commissioners and staff, legislators, and other key stakeholders. I also organized a smaller, though similar, meeting in Dallas last month.

Several years ago, an independent transmission company underwritten by Xcel received FERC approval to operate across state lines. The company sought to provide a more robust transmission system linking Midwestern states - MN, ND, SD, IA, KS, NE, CO. While ultimately the company did not construct transmission lines, to facilitate such operations in Kansas the legislature passed legislation that provides favorable tax treatment for Kansas electric utilities to sell or place their transmission operations under such an operating structure.

One of the difficulties that the SPP, legislators, the KCC, and Kansas utilities have experienced in attempting to identify cost-effective, beneficial transmission upgrades is that each company's requests are taken in the context of the individual company, rather than within the context of the state as a whole. Thus, a project that would benefit one company and its customers might not provide benefits to its neighbor, but could to the state as a whole. Such a project is unlikely to be approved by the SPP because they do not take a state's interests into their calculations, just the individual companies'.

HB 2926 would require that an independent transmission company (ITC) assume operational control over all electric transmission lines in Kansas. That ITC could be an existing Kansas utility (e.g., Westar) or an operating/financially strong company (e.g., Trans-Elect, KKR). The KCC would select the "winning" ITC proposal based on criteria specified in the bill (pg. 1, lines 27-39). Please note that one of the criteria is to "Demonstrate ability to provide the authorized rate of return to electric transmission line owners who place transmission facilities in a trust." The bill protects the financial interests of Kansas' utilities, customers, and shareholders.

Also, please note that the bill provides an option to Kansas' electric utilities - they may either sell their transmission facilities to the independent transmission company selected by the KCC or

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ATTACHMENT 3

place those facilities in a trust to be operated by the ITC. In either case, the decision is entirely up to the Kansas utility based upon the financial benefits to the company, its customers, and its shareholders.

Why is this bill before you? The goals of HB 2926 are threefold: 1) to ensure that transmission investment decisions are based on what is in the best interests of the state as a whole; 2) to provide the best financial return to Kansas utility companies while protecting customer interests; and 3) to ensure that the state's ability to generate electricity using coal, uranium, natural gas, wind, bio-mass, solar, hydrogen, and every other fuel source to meet consumer demands in Kansas and marketing opportunities out-of-state are maximized.

The concept of independent transmission operators is not radical. Wisconsin has such a system, parts of Michigan do, and Wyoming's Transmission Authority selected an ITC to build a transmission system to Colorado and California markets.

This bill has been crafted to protect Kansas electric customers and utilities, while offering maximum opportunities to develop our energy producing capabilities and economic benefits to the state.

Thank you for your consideration of HB 2926. I will be pleased to respond to questions at the appropriate time.

**PREPARED STATEMENT OF
TRANS-ELECT, INC.
IN SUPPORT OF HB 2926**

My name is Paul D. McCoy. I am Managing Director and Chief Operating Officer of Trans-Elect, Inc. ("Trans-Elect"). Trans-Elect appreciates this opportunity to comment on House Bill 2926 and looks forward to further participation on this important piece of legislation.

I.

Trans-Elect was officially chartered in April, 1999. With the acquisition of Michigan Electric Transmission Company, LLC ("METC") in 2002, Trans-Elect created the first independent, for-profit transmission company in North America. Shortly thereafter, as part of the nation's first public-private partnership to develop new transmission, Trans-Elect secured financing to construct the critically needed Path 15 Upgrade project in California – a project that ultimately produced congestion cost savings of approximately \$300 million. Through a third affiliate, Trans-Elect acts as general partner in the consortium that formed AltaLink, a Canadian enterprise created for the purpose of acquiring 7,700 miles of transmission assets formerly owned by Trans-Alta in Calgary, Alberta. The aggregate value of assets owned by Trans-Elect affiliates exceeds \$475 million in the U.S. and \$860 million in Canada.

Trans-Elect's business model focuses exclusively on the acquisition and development of independently-owned transmission systems. In contrast to vertically integrated utilities, Trans-Elect's single-function, transmission-only business structure avoids internal conflicts with other business functions regarding the use of capital. All resources and business objectives are trained exclusively at transmission related

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ATTACHMENT 4

activities, including the improvement, expansion and maintenance of transmission assets and services over the long term.

Concrete examples of the success of Trans-Elect's business model can be seen in the timely delivery of the Path 15 Upgrade project and in a variety of initiatives undertaken by METC. In addition, despite being subject to a different regulatory regime, AltaLink has experienced many of the same benefits of independence as its U.S. affiliates.

An examination of METC's long-term commitment to new technologies and other system enhancements is particularly instructive. These initiatives have been pursued with one over-arching objective – *i.e.*, to improve the quality of services across METC's transmission system. METC has also launched several capital initiatives to reduce outages and/or other system failures and to upgrade system maintenance and monitoring programs. These efforts have resulted in the steady and marked improvement in METC's overall system performance over the past two years.

METC has also either initiated, or plans to make, additional investments in a variety of other areas such as capacity additions, customer related requests and enhanced reliability. Among these expenditures for 2005 and beyond are four additional large transformers to be installed near major load centers, numerous transmission line conductor replacement (“reconductoring”) projects, including the ongoing reconductoring of over 160 miles of 138 Kv lines, customer interconnection projects, equipment upgrades and the continuation of our Protection and Control Program. These are but a few examples of planned and/or ongoing investment programs facilitated through METC's independent business structure.

II.

It is against this backdrop that Trans-Elect offers its perspective on and support for HR 2926. Under HR 2926, the Kansas Corporation Commission (“KCC”) would establish a request for proposals (“RFP”) process for the purposes of selecting an independent transmission company (“ITC”) to manage and operate all transmission facilities within the state. The objective of HR 2926 is to stimulate the construction of new transmission, thereby reducing the rising costs of congestion.

III.

HR 2926 includes specific qualifications for entities intending to respond to the RFP. In particular, HR 2926 appropriately requires prospective applicants to demonstrate financial and managerial competence¹ and the ability to engage with federal and state regulatory and legislative bodies, as well as regional transmission organizations, on matters affecting transmission services and operations.² The proposed legislation further provides that a qualified ITC must be capable of overseeing transmission planning and scheduling of service and must demonstrate that the ability to ensure that facilities placed into the ITC earn their authorized rate of return.³

The ITC’s functions are set forth in Section 1 (e) of HR 2926. Among the ITC’s responsibilities are the solicitation of load and demand forecasts, review of new generation proposals, and an annual briefing of state regulatory authorities concerning operations and plans.⁴ The ITC is also charged with implementing a postage stamp rate

¹ HR 2926 at Section 1(b)(1).

² *Id.* at Section 1 (b)(2).

³ *Id.* at Section 1 (b) (3) and (4).

⁴ *See id.* at Sections 1 (e) (1) – (3).

system by January 1, 2012 and performing all other duties and functions necessary for the efficient operation of transmission assets within the state.⁵

IV.

Trans-Elect believes that the proven success of its independent business model validates many of the concepts embodied in HR 2926. In particular, the establishment of an ITC offers an effective solution to the problems of competing investment agendas that exist within the more traditional, vertically-integrated, business construct. As Trans-Elect's own experiences confirm, this is an important first step in attracting capital to the historically under-funded transmission sector.

Moreover, the qualification criteria and functional responsibilities proposed in HR 2926 should ensure the successful implementation of the ITC construct in Kansas. Established independent transmission companies such as Trans-Elect are fully "battle-tested" in terms of demonstrating managerial and operational competence in the regulated utility environment. For example, Trans-Elect's involvement with METC and the Path 15 Upgrade project has required, and continues to require, extensive interaction with state and federal regulators and cooperative working relationships with regional transmission organizations.

Similarly, Trans-Elect could not have succeeded as it has without a comprehensive understanding of transmission scheduling, planning and utility rate-making concepts. Indeed, while the functional control of METC's system rests with the Midwest Independent Transmission System Operator, it is METC that is responsible for identifying system expansions necessary to meet its customers' network load

⁵ *Id.* at Sections 1 (e) (4) – (5).

requirements, and for overseeing system maintenance, performance management and regulatory compliance.

V.

HR 2926, and the ITC proposal embodied therein, offers real potential for addressing the state's need for new transmission infrastructure. The proposed legislation reflects appropriate criteria and functional requirements for qualification as an ITC. It is important that these criteria and requirements are fully reflected in the RFP screening process. The process must also be fair and sufficiently transparent if the goals of HR 2926 are to be met.

VI.

Trans-Elect is pleased to provide these comments in support of HR 2926 and looks forward to the opportunity to participate in the RFP process contemplated in the proposed legislation.

**Testimony on HB 2926 before the
House Utilities Committee**

By

Tom Stuchlik, Executive Director Transmission Services

Westar Energy

February 20, 2006

Chairman Holmes and members of the committee, I am Tom Stuchlik, executive director, transmission services for Westar Energy.

House Bill 2926 requires every utility in Kansas to sell its transmission facilities to an independent transmission company (ITC) selected by the Kansas Corporation Commission or place it into a trust for use by the ITC. Westar Energy and Kansas City Power and Light are opposed to this bill.

Although utilities may disagree about transmission projects, we believe the model that exists today has served Kansas customers well. Transmission projects are built according to need for reliability or the ability to import network resources. The Southwest Power Pool (SPP) makes this assessment, and if judged appropriate, the project is built.

For years, this committee has heard testimony about the need for additional transmission services in the western part of the state to bring power to the eastern part of the state. This situation will continue until such time these projects are evaluated by the SPP according to the previously mentioned needs. Once a project is deemed by the SPP to be needed for reliability or to import network resources, existing cost recovery mechanisms can be used. If the SPP decides a project is economic, there is no current mechanism for transmission operators to recover costs through their rates.

Last year, the Legislature passed a bill, which created the Kansas Electric Transmission Authority (KETA). Although still in its infancy, KETA may also provide assistance in developing transmission projects in Kansas.

Regardless of the entities involved, the approvals of the SPP and FERC are required for any projects to move forward. Transferring assets from one company to another does not improve the ability to build transmission. An ITC would still need to work with the SPP and FERC on transmission projects just as the existing utilities presently do. It is a simplistic view of utility operations that transmission can be built anytime, anywhere, and at any cost without impact on the customer.

The takeover of the state's utilities' transmission system by a separate, independent company provides little or no benefit to the state's electric customers. Westar Energy and Kansas City Power and Light oppose such a takeover and urge the committee to likewise oppose this bill.

HOUSE UTILITIES

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ATTACHMENT 5



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
February 20, 2006
HB 2926**

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 2926.

This bill requires the Commission to seek requests for proposals for an independent entity to operate all transmission facilities in the state of Kansas, with the option of allowing participation for additional transmission entities outside of Kansas. Additionally, this bill specifies certain requirements for transmission service to the independent entity and grants certain authorities to that entity.

The Commission opposes this bill. As a general concern, the Commission believes this bill to be poor public policy. Also there are other serious issues as the bill seeks to establish by state statute requirements that are in direct conflict with federal authority, policy and legislation. Finally, certain provisions of this bill are confusing and unworkable.

First, the Commission believes certain portions of this bill constitute poor public policy. Transmission owners in Kansas have been working together since 1994 to establish regional planning and use of the transmission system, not only in Kansas, but in the state of Oklahoma and in parts of the states of Missouri, New Mexico, Arkansas, Louisiana, Mississippi and Texas.

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This effort to transform the Southwest Power Pool into a regional transmission operator appears to be superseded by this bill. Not only does this bill appear to remove Kansas transmission from the SPP, it also appears to decrease transmission access for transmission users in Kansas by mandating a much smaller region than that currently available through the SPP tariff. Provisions of the bill, for example, specify certain transmission rates and services within the independent entity that would require transmission users in Kansas to not only pay the independent entity for use of the transmission system, but also to pay an additional fee to the remaining SPP transmission owners, or owners in other regions, for access to transmission outside of Kansas. Today, Kansas transmission users pay a single transmission rate, for example, for transmission service between Kansas and Oklahoma. Under the regime specified in this bill, these same transmission users, which include small and large Kansas municipal utilities, could end up paying double, or “pancaked,” transmission rates for the same service. From a policy standpoint, this bill is a serious step backward in our multi-year efforts to make cost effective investments, and thereby improve transmission to continue to ensure access to safe, reliable and economic electric service in Kansas in the future.

Second, the Commission is concerned that this bill intends to use state legislation to mandate transfer of ownership of transmission facilities in Kansas. Due to the interconnected nature of the nation’s transmission grid, use of the electric transmission system is generally considered interstate commerce and is subject to federal law and jurisdiction. Thus, this bill would appear to be preempted by federal law and perhaps unconstitutional at the onset. Any investor owned independent transmission entity would be subject to the jurisdiction of the Federal Energy Regulatory Commission. Simply put, the FERC would determine rates and rate

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design of the independent entity. While the FERC might well approve the postage stamp rate design required by this legislation, it would not be required to do so.

Third, the Commission is concerned that this bill grants certain authority to the independent entity that is in direct conflict with federal law and regulatory policy. Beginning with the Energy Policy Act of 1992, and more recently with the Energy Policy Act of 2005, as well as the FERC's Orders 888, 889 and 2000, federal law and policy have required transmission owners to provide open access to their transmission systems. The policy embedded in these statutes and orders is designed to facilitate wholesale electricity markets by ensuring that independently owned and operated generators can interconnect to the transmission system and use that system to provide generation to their customers. This proposed state legislation envisions granting an independent entity the right to determine whether or not it will interconnect a generator. Not only is this provision in direct conflict with federal law and regulatory policy, it would essentially allow an independent entity to establish its own determination of generation siting and to limit access to the interstate electric system.

Finally, the Commission believes this bill has certain provisions that are confusing. For example, it does not properly define "independent" and is unclear on who would have jurisdiction over the independent entity (though the Commission believes it would clearly be the FERC). As an another example, the Commission would direct the Committee to section 1(e)(1) of the bill which has the independent transmission entity soliciting load and demand forecasts from generators. This information is only known by the entity serving electric customers. Generators supply electricity to these load serving entities. Load and demand forecasts are prepared by the load serving entity, not the generator.

I appreciate the opportunity to present these serious concerns and flaws to the Committee's attention. There may well be good policy reasons to consider establishing single state-wide independent ownership of Kansas transmission. Unfortunately, this legislation will not accomplish that objective within the framework of current RTO initiatives or federal law and policy.

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COMMITTEE ASSIGNMENTS

Environment
 Federal and State Affairs
 Utilities

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 HOUSE OF
 REPRESENTATIVES

Written Testimony on HB 2934—House Utilities Committee **Proponent**

Mr. Chairman, Committee Members: HB2934 is an attempt to keep the issue of energy conservation on the table and to address another way that our committee can ultimately support our citizens with the increasing costs involved and limited supplies of energy.

So far we have not been able to find a bill that all of us, or the entire House, can support to address energy conservation. Representative Knox did a great job of presenting HB2657 to the House, but our fear of “passing on costs” to the consumer seemed to have won out. This bill may not garner support either (it did not gain muster in the Joint Committee!), but I want to show our committee a vehicle that provides both a **funding mechanism** (a charge on electric and gas bills that would average **15 cents** per customer) and **programs** that save customers money through education, technical assistance, and coordination.

This bill also responds to the **2006 Kansas Energy Council’s Recommendations for Legislative Action**, Item #7, “Increase spending on current energy-related technical assistance and public education efforts that promote the efficient utilization of all energy resources.”

Attached are answers to questions that I asked when working on the bill and I suspect many of you will have the same questions. I also want to address the general issue of incentives for our utility companies and the paradox that invites both support and slow response.

Staffing. The first issue involves dedicating people to the task of helping energy users know and act on conservation. As the REC’s mentioned, some do not have enough budget to hire staff to even do the “rate of recovery” programs mentioned in HB2657. This bill would provide resources for staff that would help everyone state wide.

Paradox. We all recognize that we are in an escalating energy crisis...for us and for our children and grandchildren. I am pleased that our public and cooperative utility companies have started some programs (warmhelp.org) and want to do more. But the nature of their business to pay their costs of production and **earn a small profit**, do not fit with encouraging their customers to **consume less**. This is the same with my own small photography business. I do not try to incent my customers to buy fewer photographs so I can brag about my emerging “tree hugger” conversion to saving photo paper! I do not believe we are set up in our regulated, capitalistic system of energy production to both encourage short run conservation and promote “profit”. (I still applaud the utility companies for their awareness and support that conservation and renewable energy source changes must be made, but most of those thoughts are for the long term and do not easily translate into immediate action.)

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Philosophy. HB2934 is one attempt to empower consumers and businesses to not be passive in controlling their energy usage. Instead of dependence, it takes a leadership role and encourages **responsibility, independence and control** over rising costs. People often do not know what actions are cost effective, such as switching to a ground source heat pump or knowing which weatherization approaches are effective and have tax credits or federal assistance available.

Funding Approach. HB2934 makes provision for money to help all Kansans to decide on what actions they might take to pay for their energy use. I throw out this formula and the other information as a vehicle our committee might want to consider in the future to fund priorities for other energy initiatives...especially in light of our failure to take any meaningful action to date on energy conservation. If we are ready now, here is one way. If we are not, I plan to keep this concept on the back burner!

Programs and Questions: Attached are examples of programs that can be funded by this bill from California and Vermont. The questions I asked of Bruce Snead and Legislative Research are also included that deal with many related issues like the question of what is currently being done with energy conservation in our state and how much is being spent and how.

Other big questions for our committee to explore are 1) what are other states doing in energy conservation and efficiency, 2) where does Kansas rank in our efforts nationally, 3) are we better off with this bill than doing nothing, and 4) are there other ways that make more sense than HB2934?

Thank you Mr. Chairman and Committee members. I always appreciate the variety and depth of thought given to the difficult issues we face in Utilities Committee. I will stand for questions and some light philosophizing if so desired.

Project 1 Examples of Energy Conservation and Efficiency

Example from Vermont of what they do with similar source funds –

Our customer service representatives work with households and small businesses to analyze their current power usage and help them find ways to lower their electric bills. To complement this personal phone assistance, we've also developed some simple tools to help Vermonters analyze efficiency opportunities.

- We lend meters that measure power consumption on appliances suspected of using too much energy.
- Our easy-to-fill-out usage survey enables customers to compile information on their home energy use and then work with Efficiency Vermont to find solutions.
- We offer a home audit CD for the do-it-yourselfer to analyze power consumption and efficiency options.

Questions Directed to Legislative Research and Bruce Snead

1. *What are some examples of what this bill will do for weatherization?*

Increased funding will increase number of homes weatherized and help reduce waiting lists for service and may increase flexibility of what can be done by the wzn agencies to a particular home due to need or conditions

2. *What other conservation things might be done?*

Weatherization is weatherization - no other things there - for EE technical assistance there is a wide range of items - see attached CA program list.

3. *What are some examples of information, ads, etc. that could be done?*

See attached from CA on programs -

4. *What staffing is needed and what will the specific tasks be for that staff?*

I don't think it will add to weatherization much and it must be held to the fed limits on admin costs so I estimate no more than 15% of the \$275,000 or \$41,250 could go for admin - this would be best answered by the weatherization folks though.

On the EE side - it will depend on what the rfp from the KCC seeks in terms of programs and initiatives - if it is administered just like the Fed DOE state energy program funds it will use that rfp process.

5. *Can that staff serve the REC's who can't afford to hire staff for conservation?*

EE staff would serve statewide programs under this approach ideally, so no staff would be required by any utility and the utilities would hopefully take advantage of the statewide programs.

6. *What about doing energy audits?*

These could certainly be done with the EE funds, its just a matter of defining audits for which sectors - residential, industrial commercial, etc.

7. *How will this bill interface with 2657?*

Programs the utility proposes and the KCC approves would ideally work in concert with the EE activities provided by these funds - since the KCC approves 2657 programs and controls the admin of the EE funds they can enhance that coordination.

8. *is this bill different from 2657?*

It creates specific purpose funds and a funding mechanism with guidance for use (wzn and EE tech assistance) and identifies the agency responsible for administration - it is focused versus wide open and reflects known needs and existing programs for augmentation.

9. *What are all of the conservation programs in the state?*

Bruce Snead response: "I am working on this - it was supposed to be compiled by a gov's intern for the KEC."

10. *How much is spent on them and by whom?*

Ditto

11. *How much federal money comes to the state for conservation and how much is spent and not spent? How much money has the Governor put in her state budget recommendation for FY2007 for weatherization and efficiency?*

Best answered by the budget office, I think. (See Legislative Research response at the end of the questions.)

Governor's Budget Recommendation: (Vol. 1, Page 71 Under Department of Com.)

Energy Program Grants. The Governor recommends \$4.0 million from the State General Fund in FY 2007 for programs related to energy conservation and weatherization. \$2.0 million will provide funds to reduce the waiting list for the Home Weatherization Program, which is available to Kansas homeowners who are at or below 60.0 percent of the Kansas median income level. Another \$2.0 million will be used to establish a revolving loan program to assist homeowners at or below 80.0 percent of Kansas median income in obtaining low-interest loans to winterize their homes. Although budgeted through the Department of Commerce, the programs will be administered by the Housing Division of the Kansas Development Finance Authority.

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Low Income Energy Assistance. Through the federal Low Income Energy Assistance Program, funds are available to help families meet their energy needs. Benefits vary according to criteria, including household size, income level, dwelling type, and utility rates. A total of \$6.9 million is estimated to be available for FY 2007. An estimated 23,033 families will be served. The Governor also added \$1.0 million from the State General Fund to help additional low income families meet their energy needs.

12. *Should we have an overall plan that coordinates all conservation efforts in one agency/spot?*

It would be a good idea - there has been some movement towards this by the governors' staff and the KCC in the operation of the KEC and the changes made since December 1.

13. *What are the utilities doing and will this money interface with them and if so in what ways?*

See answer to 7 above

14. *How is this model of taxing the bills of consumers like any other model...ie KCC now? Does it give us a model we might use to do other tasks to incent renewable energy or conservation programs?*

The KCC collects funds for its operation from utilities already - so it is similar. Public benefit funds are used to do many other types of programs - EE and renewables and conventional fuels programs, too.

Legislative Research Responses:

Representative Hawk:

This is in response to your question, *"How much federal money comes to the state for weatherization and energy conservation improvements?"*

In fiscal year 2006, the **Weatherization Assistance program** received \$5,207,914 of **federal funds** (this came from two sources: the U.S. Department of Energy and the state's share of the federal Low-Income Home Energy Assistance Program). Norma Phillips, executive vice president of the Kansas Housing Resources Corporation, informed me that \$123,536 was left over from fiscal year 2005 and will be distributed with the 2006 funds.

In fiscal year 2006, the **Energy Division of the Kansas Corporation Commission (KCC)** received \$321,189 of **federal funds** from which it made a variety of grants. The attached table shows how that money has been distributed. In addition to the grants, approximately \$300,000 of federal energy efficiency and conservation funds are used by the Corporation Commission to administer the activities of the Energy Office. The KCC did not inform us of any expected surplus.

If you have questions or need additional information, please feel free to contact me or Mary Galligan.

Heather Klaassen
Research Intern
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Rep. Hawk,

In addition to the information that Heather sent to you earlier this evening, we found another small amount of federal money that flows into Kansas for energy efficiency and renewable energy projects. **The funds are provided by the USDA.** This money does not flow through any state agency, but comes to Kansas in the form of direct grants to project developers.

In FFY 2005, two applicants for energy efficiency grants received a total of **\$14,673**. Those grants support up to 25% of eligible project cost, so applicants must have other non-federal funding sources to match with the federal funds. In FFY 2004, there also were 2 applicants from Kansas who were awarded USDA energy efficiency funds in the amount of \$17,935.

Gary Smith at the Topeka USDA office provided this information. He commented that not many Kansans apply for these funds and that competition for the funds is growing nation-wide.

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2004-05 Energy Efficiency Program Summaries

This list includes only the programs offered in the investor-owned utility service areas.

* Descriptions provided herein are not meant to be comprehensive. Some programs may be closed for the year. For a specific program description, including participation criteria and specific measures, please search by utility service area at FYPower.org, refer to the program implementer directly and/or the proposal and implementation plan, which can be found on the CPUC's website at <http://www.cpuc.ca.gov>.

RESIDENTIAL ENERGY EFFICIENCY PROGRAMS

CUSTOMERS SERVED BY:				Program Title	Description *	Implementers
SDG&E	SCG	SCE	PG&E			
✓		✓	✓	Appliance Recycling	Incentives to dispose of operable refrigerators and freezers.	PG&E, SCE, SDG&E
✓	✓	✓	✓	Home Energy Efficiency Surveys	Online audit service provides customers with information specific to home energy usage. Provides energy-saving ideas to help manage energy costs. Available in various languages depending on service territory.	PG&E, SCE, SDG&E, SCG
✓	✓	✓	✓	Single Family Rebates	Rebates to purchase specific new, energy-efficient products.	PG&E, SCE, SDG&E, SCG
✓	✓	✓	✓	MultiFamily Rebates	Rebates for the installation of qualifying energy-efficient improvements in multifamily dwellings.	PG&E, SCE, SDG&E, SCG
✓	✓	✓	✓	California Energy Star New Home Construction	Incentives, design assistance and training to encourage the construction of single family and multifamily buildings that exceed AB 970 Title 24 residential building standards.	PG&E, SCE, SDG&E, SCG
✓				Hard To Reach Lighting Turn In	Exchange of inefficient halogen torchiere fixtures, and incandescent bulbs for ENERGY STAR® qualified torchiere fixtures and compact fluorescent lamps at no cost.	San Diego Gas & Electric
	✓	✓		Comprehensive Hard-to-Reach Mobile Home Program	Provides education and no cost installation of the following measures to hard-to-reach residential customers in mobile homes: (a) air conditioning tune-ups; (b) compact fluorescent lamps (CFLs) and hard wired CFL fixtures; (c) low flow showerheads, aerators, and water heater temperature setback; (d) set back thermostats; (e) water heater timers; and (f) enhanced duct sealing.	American Synergy Corp (ASC)
			✓	Community Energy Efficiency Program	Builders who submit subdivision plans that demonstrate the subdivision exceeds California ENERGY STAR requirements (15% above Title 24) receive faster plan review, expedited field inspections, reduced fees and recognition.	Building Industry Institute (BII)
			✓	Moderate Income Comprehensive Attic Program (MICAP)	Provides an array of cost-effective measures to the target audience, including: attic insulation, attic vents, duct seals, AC diagnostics, torchiere lamps, low-flow shower heads, aerators, water heater blankets, water heater pipe wrap, compact fluorescent lighting, programmable thermostats and energy education.	Bo Enterprises
			✓	California Retrofit Home Performance Program	Trains residential specialty contractors in "whole house contracting," in which all energy efficiency deficiencies (and related problems such as combustion safety, moisture, comfort and air contaminants) are identified through extensive testing and remedied, typically including both HVAC system equipment and building shell improvements.	California Building Performance Contractors Association (CBPCA)
			✓	California Youth Energy Services (CYES)	Trains youths in Berkeley, Oakland, Albany, Emeryville, Richmond and El Cerrito to perform energy audits and low cost energy efficiency upgrades in low to moderate income single-family residences in their neighborhood.	City of Berkeley
			✓	Yolo Energy Efficiency Project-1 (YEPP-1)	Hardware-incentive program will serve residential, multifamily, and commercial customers and will address lighting, cooling and building envelope needs.	City of Davis

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			✓	Yolo Energy Efficiency Project-2 (YEPP-2)	Serves residential, multifamily and commercial customers and addresses lighting, cooling and building envelope needs, as well as energy use in agricultural pumping. YEPP-2 will complement YEPP-1 with an information-only/market transformation program which will involve intensive and broad outreach to the public through training sessions, tabling, canvassing, mailers through local governments, special promotions.	City of Davis
✓				Residential Duct Services Program	Incentive program for duct repair and advanced heating, ventilation and HVAC and diagnostic tune ups and contractor training.	Energy Analysis Technologies
✓			✓	HEED Home Energy Efficient Design	Provides an easy-to-use energy design tool that shows California's residential customers the energy cost savings of remodel, repair and redesign decisions for their homes	Energy Design Tools Group, UCLA
			✓	Green Building Technical Support Services	Trains custom builders, remodelers and affordable housing developers on Green Building techniques. It also provides education on Green building techniques	Frontier Associates
		✓		Performance4 Home Certification and Whole House Energy System Services	Offers no cost energy audits and financial incentives for energy efficiency measures for residential single family homes.	H&L Energy Savers
✓	✓	✓	✓	Designed for Comfort, Efficient Affordable Housing	Incentive based program that works with housing authorities and building owners to promote installation of energy efficiency measures.	Heschong Mahone Group
			✓	Partnership for Energy Affordability in Multi-family Housing	Technical assistance to multi family building owners and promotion of energy efficiency programs.	ICF Consulting
	✓			Gas Only Multifamily Program - South	Provides for comprehensive residential energy efficiency renovations and retrofits by offering cash incentives and services to apartment tenants and owner/operators for the installation of all energy efficiency measures.	SESCO
NONRESIDENTIAL ENERGY EFFICIENCY PROGRAMS						
✓		✓	✓	Standard Performance Contract Program	Incentives for custom-designed energy savings retrofits of existing business facilities.	PG&E, SCE, SDG&E
✓	✓	✓	✓	Express Efficiency Program	Rebates program for retrofit with qualifying energy efficient electric or gas equipment.	PG&E, SCE, SDG&E, SCG
✓	✓	✓	✓	Nonresidential Energy Audit	Energy audits to all size nonresidential customer facilities. Audit can be on-site, on-line, phone, mail-in or CD ROM.	PG&E, SCE, SDG&E, SCG
✓	✓	✓	✓	Building Operator Certification and Training	Certification program designed to educate building operators on every major operating system in their facilities with an emphasis on energy efficiency and building operations and maintenance.	PG&E, SCE, SDG&E, SCG
✓	✓	✓	✓	Savings By Design	Project-specific design assistance and incentives to building owners and design teams that exceed Title 24 requirements by 10% or more. Education, training and design tools through the integrated Energy Design Resources program component.	PG&E, SCE, SDG&E, SCG
✓		✓	✓	Upstream HVAC and Motors Rebate Program	Upstream rebate program that provides financial incentives to distributors to stock and sell qualifying high efficiency products.	PG&E, SCE, SDG&E, SCG
			✓	Food Service Technology Center	Provides nonresidential customers with food service operations, with impartial, reliable and useful information that stimulates the energy-efficient design and operation of commercial food service facilities	Pacific Gas & Electric
✓				Small Business Energy Efficiency	Energy-efficient lighting measures are installed at no-cost to eligible customers	San Diego Gas & Electric
✓				Energy Savers	Financial incentives for energy efficiency refrigerators, software plug load sensor and torchieres.	San Diego Gas & Electric

✓				Customer Energy Savings Bid	Competitive bidding solicitation of innovative and cost-effective energy efficiency program proposals especially customers having difficulty participating in other PGC funded nonresidential rebate programs.	San Diego Gas & Electric
✓				Sustainable Communities Program	Promotes sustainable growth by showcasing energy efficiency design and building practices.	San Diego Gas & Electric
		✓		Pump Tests & Hydraulic Services Program	Information of energy efficiency measures specific to the agricultural businesses, water districts and other high water usage businesses.	Southern California Edison
		✓		Local Small Nonresidential Hard to Reach Program	Hardware/incentive programs that provides no-cost energy efficiency lighting retrofits to very small business customers	Southern California Edison
	✓			Nonresidential Financial Incentives Program	Rebates for installation of specific energy efficient products; "kind for kind" replacement of old and inefficient equipment; and incentives to implement specific commercial building envelope or industrial process changes.	Southern California Gas Company
✓	✓	✓		Mobile Energy Clinic	Improves energy efficiency for small HTR businesses by (1) implementing no-cost/low-cost measures and (2) providing diagnostics of energy-using equipment.	ADM Associates, Inc.
✓				San Diego Green Schools Program	Provides a wide range of instructional materials and tools that are correlated to the California Standards of Learning in science, math, language, arts and High School Exit Exam.	Alliance to Save Energy (ASE)
			✓	Northern California Local Government Energy Partnership	Provides technical assistance and information services to small to medium sized cities, counties and special districts to complete energy efficiency projects in public facilities and to promote energy efficiency within their communities.	Association of Bay Area Governments (ABAG)
			✓	Energy Savers Program	Offers financial incentives for efficient lighting, programmable thermostats, energy-efficient package unit air conditioners, and tune-ups for air-cooled package units and refrigeration systems. It also provides recommendations for energy efficient practices specific to lighting, air conditioning, and refrigeration systems and other measures.	ASW Engineering Management Consultants
	✓	✓	✓	Agriculture Pumping Efficiency Program	Provides technical support and financial assistance in order to encourage the agricultural industry to adopt more energy efficient pumping systems, maintenance and operation. Incentives will be provided for equipment testing, repair and retrofitting.	California State University Fresno
	✓		✓	Pre-rinse Spray Head Installation Program	Replaces high water use pre-rinse spray valves with more efficient models at food service facilities: restaurants, cafeterias, institutional kitchens and food preparation companies.	California Urban Water Conservation Council (CUWCC)
			✓	Marin Public Facilities Energy Management Team	Information program that provides audits, walkthroughs and other activities at schools and public buildings in Marin County.	County of Marin
✓		✓	✓	Statewide School Energy Efficiency Program	Expertise and resources to assist school districts in implementing energy efficient retrofits and energy education.	D & R International
			✓	RightLights (Monterey Bay Area Efficient Lighting Program)	Installs comprehensive, turnkey lighting retrofits, as well as pre-rinse spray nozzles (food service only), and information-only resources on refrigeration, HVAC, and motors efficiency measures to nonresidential customers with less than 500kW demand.	Ecology Action
		✓	✓	California Multi Measure Farm Program	Promotes the installation of energy efficient measures with cash incentives to dairy producers	EnSave Energy Performance, Inc.
		✓		Emerging Communities Energy Efficiency Program	Provides target businesses with no cost energy audits as well as direct install services for lighting and HVAC tune-up measures.	FCI Management Consultants
			✓	California Agri-Food Energy Efficiency Program (CAFEE)	Assists rural farmers in to become more energy-efficient and productive.	Global Energy Partners (GEP)
		✓	✓	EEGOV Business Energy Services (B.E.S.T.) Team Program	Creates partnerships with cities with a relatively large nonresidential HTR population to expand and strengthen local government programs and promote energy efficiency among small and very small businesses in the community.	KEMA-Xenergy
		✓	✓	Enhanced Automation Initiative	Promotes enhanced automation and more efficient energy management systems (EMS) in large non-residential customers	KEMA-Xenergy
		✓		Long Beach Business Energy Services Team (B.E.S.T.) Program	A turnkey marketing and implementation process that takes customers from interest and intent to actual installation of targeted measures.	KEMA-Xenergy

			✓	Positive Energy Loan Fund	Provides below-market rate loans through local banks as incentive to finance the implementation of cost effective energy efficiency projects targeting hard to reach commercial and industrial customers.	KEMA_XENERGY
		✓	✓	Prototype Community Energy Efficiency Programs	Assists local county and city governments to identify, select, and implement programs and policies to promote and achieve aggressive energy efficiency programs.	Navigant Consulting, Inc.
✓		✓	✓	EnergySmart Grocer	Provides grocers and food-handling businesses with audits and information to encourage investment in energy-efficient equipment.	Portland Energy Conservation, Inc. (PECI)
✓				Retrocommissioning Program	Provides technical guidance and oversight, training and incentives for building retrocommissioning.	Portland Energy Conservation, Inc. (PECI)
		✓	✓	Building Tune-Up Program	Identifies and implements changes in building operations and related hardware to reduce energy use. The tune-ups involve use of specific test procedures designed	Quantum Consulting, Inc.
✓			✓	California Wastewater Process Optimization Program	Conducts audits of wastewater treatment facilities, install "hard" monitoring, control, and equipment measures, and train staff in facilities optimization to bring about energy savings at currently energy inefficient wastewater treatment facilities.	Quantum Consulting, Inc.
			✓	Small Nonresidential Energy Fitness Program	Provides direct installation of cost-effective energy conservation measures (lighting, thermostats) at no cost to the target customers. For the 2004-2005 program, RHA will also add air conditioning and tune up operation and maintenance measure	Richard Heath & Associates, Inc (RHA)
			✓	Energy Savers Program	Provides energy audits and efficiency measures for very small, small and some medium-sized businesses	RLW Analytics
			✓	Compressed Air Management Program (CAMP)	Offers free measurement-based performance assessment of compressed air systems. The assessment provides specific recommendations to plant operators and technical follow-up support to help motivate adoption of these recommendations.	SBW Consulting, Inc.
✓				San Diego Local Government Energy Efficiency Program	Provides rebates for energy efficiency upgrades to city and county owned government buildings in San Diego County.	San Diego Regional Energy Office (SDREO)
✓				San Diego Regional Green Building Education and Technical Assistance (GBETA)	Provides training, design assistance and technical support for public and private sector green building projects. The program promotes long-term sustainable energy use and peak demand savings by supplementing existing municipal green building program implementation efforts	San Diego Regional Energy Partnership (SDREP)
✓				B.E.S.T.	Provides "turnkey" services that include marketing, energy education, site-specific energy analysis, financial incentives, equipment procurement and installation.	San Diego Regional Energy Partnership (SDREP)
✓				San Diego Region Technical Assistance Program	Provides technical assistance to local businesses and government agencies interested in implementing energy efficiency upgrades in their facilities. The technical assistance will include development of energy management strategies, facilities audits and energy management staff education.	San Diego Regional Energy Partnership (SDREP)
✓	✓	✓	✓	IOU/UC/CSU Partnership	Energy efficiency improvements and training at UC and CSU campuses.	PG&E, SCE, SCG, SDG&E, UC and CSU
✓				San Diego City Schools Retrofit and Partnership Program	Provides comprehensive energy audits and energy efficiency equipment installation in targeted San Diego schools.	San Diego City Schools & SDG&E
CROSS CUTTING ENERGY EFFICIENCY PROGRAMS						
✓	✓	✓	✓	Education & Training	Energy efficiency education and training is provided to contractors, retailers, manufacturers and distributors of energy efficiency products.	PG&E, SCE, SDG&E, SCG
✓	✓	✓	✓	Emerging Technologies	Promotes the development and commercialization of new technologies through collaboration between IOUs and CEC (ETCC and PIER).	PG&E, SCE, SDG&E, SCG
✓	✓	✓	✓	Codes & Standards	Training and information to code implementers and other professionals affected by Codes. Works with other interested parties on the development of state and federal standards through participation in standards organizations. Advocates for improvements in Title 24 requirements in cooperation with the CEC.	PG&E, SCE, SDG&E, SCG
			✓	Energenius	Energy efficiency information and education program for grades 1-8.	Pacific Gas & Electric
			✓	Long-Term Procurement Plan	Res and nonres programs measures aimed at reducing critical load.	Pacific Gas & Electric
			✓	School Resources Program	Energy efficiency information, benchmarking and education services to participating school districts.	Pacific Gas & Electric
			✓	Pacific Energy Center (PEC)	Information and education to local government regarding self sustaining energy efficiency partnerships.	Pacific Gas & Electric

		✓		Local Government Initiative	Offers energy efficiency information and education, hardware upgrades, and subsidized energy efficiency improvements to small to medium-business owners, lower-to-moderate income residential customers, single and multifamily existing residential consumers, and residential and small commercial builders.	Southern California Edison
		✓		Innovative Designs for Energy Efficiency Activities (IDEEA)	Annual competitive bidding solicitation of innovative and cost-effective energy efficiency program proposals across all market and customer segments.	Southern California Edison
✓		✓	✓	Green Campus Pilot Program	Develops student led campus energy efficiency outreach programs designed to provide university students as well as administrators, faculty and systems' managers energy efficiency education.	Alliance to Save Energy (ASE)
		✓	✓	Green Schools Program	Focuses on saving energy in schools and helping students understand the link between energy and the environment through behavior modification, operational changes and retrofits in school buildings.	Alliance to Save Energy (ASE)
✓		✓	✓	Building Energy Code Training	Trains production builders and local governments (building departments) in the proper implementation of the California Residential Energy Efficiency Standards (Title 24), methods and programs to exceed these Standards, and upcoming changes to the residential 2005 Title 24 Standards proposed for implementation in 2006.	Building Industry Institute (BII)
✓	✓	✓	✓	Nonresidential Fenestration Certification Initiative (NFCI)	Facilitates and encourages conformance with the California Energy Commission (CEC) emergency Title 24 standards (of 2001 and 2005) through a comprehensive program of outreach, tailored trainings, and precision technical assistance efforts.	CSU Chico
			✓	LightWash	Provides incentives for the installation of energy and water efficient commercial washers in non-single family residential properties and for lighting and boiler systems incentives in coin laundry stores (e.g., Laundromats).	Energy Solutions
	✓	✓	✓	Chinese Language Efficiency Outreach-Statewide (CLEOS)	Information, audit and education targeting the residential and small commercial Chinese speaking population.	Global Energy Services, Inc (GES)
			✓	San Joaquin County Comprehensive Energy Efficiency Program	Comprehensive energy efficiency program support including audits and education.	Intergy Corporation
			✓	Redwood Coast Regional Comprehensive Information and	Provides comprehensive energy efficiency educational services and trainings tailored to local industry and needs.	Redwood Coast Energy Authority (RCEA)
✓		✓	✓	RCA Verification Program for New Air Conditioners	Provides in-field training and upstream incentives to air conditioner contractors. The program includes computer diagnostic software that quickly determines whether or not there is a problem with RCA and then provides expert recommendations for correcting problems.	Robert Mowris & Associates (RMA)
✓				San Diego Energy Resource Center	Provides energy information to residential and nonresidential market segments and acts as a conduit for all entities that offer public purpose programs.	San Diego Regional Energy Partnership (SDREP)
✓				San Diego Green Action	Works with local high school students teaching them the importance of energy conservation and the societal impacts from greenhouse gas emissions. The program consists of energy education workshops, energy audit training, direct implementation of energy audits and a youth forum.	San Diego Regional Energy Partnership (SDREP)
✓				San Diego Regional Cool Communities Shade Tree Program	The primary objective of this program is to plant 17,000 trees throughout San Diego County by the end of 2005.	San Diego Regional Energy Partnership (SDREP)
			✓	Efficiency on Wheels	Installs occupancy sensors, vending misers, programmable thermostats and other energy-saving items as needed depending on each individual case. Also educates communities on energy efficiency options for homes and businesses.	San Francisco Community Power Cooperative (SFCPC)
	✓	✓	✓	Bakersfield/Kern Energy Watch	Energy audits and direct install of measures to residential and small businesses. Also technical and financial assistance to city and county government buildings and other education and training.	City of Bakersfield, County of Kern, Staples/Hutchinson, SCE, SCG, & PG&E
			✓	PG&E/Silicon Valley Energy Partnership	Education and outreach, direct install services to small businesses, energy audits and targeted Savings by Design to municipal construction.	City of San Jose and PG&E
			✓	PG&E Local Government Partnership: East Bay Partnership	Building tune up, energy efficiency audits, and various other incentives and information.	PG&E
			✓	PG&E Local Government Partnership: City of Fresno	Various residential and nonresidential direct install measures and energy audits.	PG&E
			✓	PG&E Local Government Partnership: City of Stockton	Various residential and nonresidential direct install measures and energy audits.	PG&E
			✓	PG&E Local Government Partnership: City of West Sacramento	Marketing, education and outreach, special assistance to local businesses and local training.	PG&E
			✓	PG&E Local Government Partnership: El Dorado County	Various residential and nonresidential direct install measures and energy audits.	PG&E

	✓	✓		The Energy Coalition: Community Energy Partnership	Direct installation of energy efficiency measures and education to raise awareness of energy management.	Energy Coalition, SCG & SCE
	✓	✓		South Bay Cities Energy Efficiency Center	Development of a community-based resource for energy information, training and materials to assist the member agencies, businesses and citizens to best utilize the resources available to them through the wide variety of statewide and local energy efficiency programs.	South Bay Cities Council of Government, SCE & SCG
	✓	✓		Ventura County Regional Energy Efficiency Center and Comprehensive Public Sector Program	Develop and implement local energy policy and programs, complete the development of its Energy Resource Center, and implement a targeted public sector energy savings program for public agencies throughout Ventura County.	Ventura County Regional Energy Alliance, SCE & SCG
	✓	✓		LA County SCE/SCG Partnership	Various residential and nonresidential direct install measures and energy audits targeting county facilities and multi family complexes.	County of Los Angeles, SCE & SCG
		✓		City of Pomona and Southern California Edison Partnership for Energy Efficiency	Various energy efficiency upgrades to hard to reach residential and nonresidential City of Pomona facilities.	City of Pomona & SCE
STATEWIDE MARKETING AND OUTREACH PROGRAMS						
✓	✓	✓	✓	Flex Your Power Marketing and Outreach Program	Marketing and education programs that capitalize on the "Flex Your Power" campaign through TV, newspaper, radio and targeting English and Asian-speaking consumers.	McGuire and Company (aka Efficiency Partnership)
✓	✓	✓	✓	Univision Television Energy Efficiency Marketing Program	Marketing and outreach to Spanish-speaking communities, using televised marketing and information.	Univision Television Group and Staples Hutchinson & Associates, Inc.
				Reach for the Stars Statewide Energy Efficiency Marketing and Outreach	Marketing and outreach energy efficiency communications program directed to customers in rural communities primarily through radio and printed materials.	Runyon Saltzman & Einhorn (RSE)

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Division of the Budget
 State of Kansas

Agency Kansas Corporation Commission
 Program Energy Division

KANSAS CORPORATION COMMISSION ENERGY PROGRAMS

State Energy Program Grants for FY 2006 - *Approved by Governor, KCC Commissioners and the Department of Energy*

Vendor Project Location	Project Summary	Prior	Amount
Pinnacle Technology, Inc. <i>Kansas Energy Annual Report</i> Lawrence	The Energy Annual Report documents the accomplishments of the Kansas Energy Program's grantees during 2005. The report contains contact information for each project and a non-technical summary. Pictures and quotes will be included when available and appropriate. It will be distributed to state leaders and the general public. The Energy Annual Report has received many compliments from energy leaders at the national level.	Yes	\$15,000
Formula Sun Educational Foundation <i>Formula Sun & American Solar Challenge</i> Freeman, MO	Universities and high schools from all over the country will come to test their ideas of the best applications of solar vehicle technology. Teams will have spent the previous two years designing, building, testing and fundraising for their projects. Individuals and businesses will be involved as volunteer officials for the events.	Yes	\$20,000
KU Center for Research <i>Kansas Energy Information Network</i> Lawrence	The main goal of the Kansas Energy Information Network (KEIN) web-site is to provide users easy access to energy information. News, events, and resources relevant to Kansans and focused on renewable energy and energy efficiency are the primary resources found at KEIN. This project includes the web-site for the Kansas Energy Council (KEC). KEIN is located on the web at: www.kansasenergy.org	Yes	\$25,145
Pinnacle Technology, Inc. <i>2005 Renewable Energy Conference</i> Lawrence	Pinnacle will assist in organizing a renewable energy conference in Topeka in (Sept 2005) to inform landowners and other interested citizens on the economic impact of the future development of renewable energy on them as individuals and Kansas. The purpose is to provide factual data from informed sources to interested parties in the state so as to promote the positive development of Kansas' renewable resources and encourage energy conservation. The conference is an annual continuation and update of wind, biomass, and solar resource development education begun in Manhattan in 2000.	Yes	\$34,063

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<p>Kansas State University <i>Kansas Energy Extension Service</i> Manhattan</p>	<p>Activities in this year's proposal will build on successes of previous year's efforts. The key feature of this year's plan is involved with providing direct technical assistance to the Kansas energy customer through the following sub tasks -- Targeted public outreach programs involving increasing public awareness concerning the energy, environmental and economical benefits to Kansas, the nation and the world associated with developing and implementing energy efficiency measures and renewable energy resources; and expansion and/or maintenance of Web-based resources and libraries on the KEES web site.</p>	<p>Yes</p>	<p>\$45,000</p>
<p>Kansas Corn Commission <i>Kansas Ethanol Outreach Program</i> Garnett</p>	<p>Through education and promotional efforts, this project will create an increased demand for ethanol-blended fuels throughout the entire State of Kansas. This project will concentrate on the distribution of factual information to mechanics, automotive dealerships, educators, fuel retailers, fuel distributors, legislators and consumers. This project will increase consumer confidence, consumer demand in ethanol-blended fuels.</p>	<p>Yes</p>	<p>\$10,000</p>
<p>Kansas Association Conservation & Environmental Education <i>Project Learning Tree & Society Educational Project & Ad Council</i> Manhattan</p>	<p>Project Learning Tree has developed Energy and Society, a supplemental curricula guide that seeks to raise awareness and promote critical thinking skills about through the interdisciplinary study of energy and the environment within the context of the society. Using the curricula and capitalizing on the National Ad Council's Energy Conservation Campaign in Kansas, KACEE will pilot a project that targets schools and school districts participating in the Facility Conservation Improvement Project to deliver energy education workshop for educators within those schools and school districts and other educators, and raise awareness.</p>	<p>Yes</p>	<p>\$15,000</p>
<p>Kansas Soybean Association <i>Biodiesel Education Programs</i> Topeka</p>	<p>Many petroleum marketers are interested in carrying biodiesel to blend with diesel to meet the growing demand, but they are unsure about infrastructure investments they will have to make and are unaware of proper handling and storage procedures of biodiesel. Educating the petroleum industry is key to the commercialization. This project will expand on previous efforts and educate petroleum distributors on the use of biodiesel and biodiesel blends; thus increasing Kansas's availability of alternative fuels.</p>	<p>Yes</p>	<p>\$10,000</p>
<p>Kansas State University Foundation <i>American Solar Challenge PV Car</i> Manhattan</p>	<p>Students design, build, test and race a vehicle strictly powered by the sun and the energy that can be stored from it. This project gives the leaders of tomorrow a chance to work on cutting-edge technology that may someday change the world we know. The project will benefit the goals of the State Energy Program by</p>	<p>Yes</p>	<p>\$20,000</p>

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	promoting solar energy in the state of Kansas and across the country. Another benefit is the fostering of the appreciation of efficiency and alternative technologies among team members. Many of these team members go on to be leaders in their chosen technical field.		
Bowersock Mills & Power Co. <i>Renewable Energy (Hydro) Education</i> Lawrence	The Bowersock Mills & Power Company will replace three of their current 80 year-old governors that control the hydro-electric generators at our plant. This would reduce energy consumption as well as reduce the amount of oil that could potentially spill into the Kansas River. This project will allow the company to sell more renewable energy to the end-user. It is estimated to save us 20,000 kWh per year.	Yes	\$4,500
Community Action of Topeka <i>Energy Conservation & Weatherization</i> <i>Education</i> Topeka	The request is to provide funding for salary and travel expenses to provide Energy Conservation workshops in the project counties. The workshops will present Energy Conservation ideas, literature and procedures that would enable the average home owner to reduce their energy consumption. In conjunction with the work shops, installation of “Winterization Kit” materials will be explained and the kits will be distributed to low-income individuals. The “Kits” contain Pipe Wrap, rope caulk, gun caulking, a caulking gun, plastic window and door coverings, and air infiltration and insulation materials.	Yes	\$2,000
Kansas Department of Administration <i>Kansas Energy Council Governor’s</i> <i>Fellow Position</i> Topeka	The Governor’s Fellow position will assist the Governor’s Director of Science and Energy Policy and the efforts of the Kansas Energy Council; including development of a comprehensive state energy plan, community wind energy, and other renewable energy and alternative energy issues, etc.	No	\$36,206
Johnson County <i>Energy Education on LEED Building</i> Olathe	Johnson County is constructing a new County Office building to LEED Gold standards. With the built-in energy efficiency and sustainable construction features, it will provide a valuable platform to disseminate renewable energy information to various public groups and organizations as well as the general public. This will be presented with computerized monitoring of wind turbine performance; software to interpolate data into meaningful, real life applications (i.e., a 2000 sq ft home); and on-going cost-saving from the building’s operating systems (i.e., lights, HVAC, daylighting, etc.).	No	\$11,875

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Kansas State University <i>Tradable Renewable Energy Credits – Phase II</i> Manhattan	This study follows a previous study funded by the United States Department of Energy through the Kansas State Energy Office. Phase I of this project was geared toward reviewing literature and gathering the data and information necessary to do a more detailed and comprehensive analysis of potential impacts and value of tradable renewable energy credits in Kansas. The potential market for electricity generated from wind and biomass energy is the focus of this study.	No	\$35,000
USD 259 Wichita Public Schools <i>Secondary Career & Technical Education</i> Wichita	Students in the Engineering and Manufacturing Academy will design, develop, construct, test and operate a small-scale wind turbine energy generation, transmission and storage system. It will be used in the educational program in the school.	No	\$7,400
Kansas Department of Commerce <i>Kansas Bio-Product Roadmap</i> Topeka	Bio-product development in Kansas remains a work-in-progress. However, with the collaboration of entities working in the Kansas Energy Council, Kansas Bioscience & Innovation Roadmap process, Rural Life Task Force, etc., synergies and opportunities exist to move agriculture-based products toward commercialization. Funding toward this effort would yield a complete survey of existing and near-potential products and companies working in the agriculture biosciences.	No	\$30,000

**Utilities Committee
Kansas House
Written Testimony of Bruce Snead
Manhattan, Kansas
February 20, 2006**

HB 2934

Mr. Chair and members of the committee, thank you for the opportunity to submit written testimony on this bill. This bill creates a funding mechanism and two state funds which will be used to address energy conservation through the state weatherization program in the Kansas Housing Resources Corporation, and energy efficiency technical assistance through the state corporation commission. Both funds can augment, replace reductions, or be used to match federal funding for these programs. The total amount of annual funding is limited to 20% of the federal DOE's state weatherization annual allocation or \$550,000, whichever is less. The funds will end on July 1, 2010 after a four year period. This amount of time is necessary for the programs to receive and apply the funds in qualifying activities, sustain measurable effort, and develop meaningful information for required annual reports to the legislature and governor.

Thirty three states augment weatherization and energy efficiency programs either through public benefit funds or utility assessments (See 2004 State-by-State Supplements to Energy Assistance and Energy Efficiency attached). Kansas is not listed since it did not and has not contributed to these activities. The weatherization funding will provide a first-time-ever state contribution to low-income weatherization activities, will help reduce waiting lists, increase the number of homes served in a achievable increment (ten percent of annual funds), and might increase the opportunity to accomplish a more effective weatherization package for each home. The funds will be used under existing guidelines and in accord with existing expenditure requirements.

The energy efficiency technical assistance fund will be used to augment or replace declining federal state energy program and PVE dollars for energy efficiency activities, including, but not limited to:

(1) economic and technical-feasibility analysis and assistance associated with implementing energy efficiency and conservation measures in residential, commercial, and industrial sectors, and

HOUSE UTILITIES
DATE: 2/20/06
ATTACHMENT 8

- (2) matching funds for federal Department of Energy programs, and
- (3) for energy conservation and other energy-related activities in this state, including, but not limited to, the state energy conservation program, and the energy extension service program.

As the Federal Energy Policy Act of 2005 is implemented, businesses, organizations and citizens will need technical information and assistance statewide to take advantage of tax credits and programs (see attached Summary of Energy Efficiency Tax Incentives in Energy Policy Act of 2005). Services which focus on statewide impact to affect all sectors and consumers contributing to the fund can be procured through administration at the state corporation commission.

All public, cooperative, and municipal electric utilities, and all public and municipal gas utilities in the state would contribute to this fund for statewide programs on an equitable basis. Based on 2004 data (see attachments #1, 2, 8), I estimate a typical residential electric customer would add 5 to 10 cents per year to their bill, and a typical residential natural gas customer would add 8 to 18 cents per year to their bill. Based on my estimate, the one year financial impact on electric utilities (on a ½ to electricity, ½ to natural gas allocation of charges) would range as follows:

- for cooperatives from a low of \$1 for the Tri-County Electric Cooperative to \$8120 for Midwest Energy, and
- for municipals from a low of \$1.72 for the City of Radium, to \$17,367 for Kansas City, and
- for investor owned utilities from a low of \$ 159 for Southwestern Public Service Co, to \$68,523 for Westar Energy.

These amounts are typically a few ten thousandths of 1 percent of annual revenue for these entities.

I would be pleased to answer any questions.

Bruce Snead
810 Pierre St.
Manhattan, KS 66502
785-537-7260 Home 785-532-4992 Work
Member – Kansas Energy Council, Energy Efficiency Representative
City Commissioner and Mayor Pro-tem – Manhattan
State Extension Specialist in Residential Energy – Kansas State University

Attachments:

1. SAMPLE ESTIMATE OF UNIFORM CHARGE #1

If the charge were to be allocated half to electricity and half to gas

2. SAMPLE ESTIMATE OF UNIFORM CHARGE #2

If the charge were to be calculated based on total potential energy delivered from both sources- electricity and natural gas

3. 2004 State-by-State Supplements to Energy Assistance and Energy Efficiency

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.

4. Summary of Energy Efficiency Tax Incentives in Energy Policy Act of 2005)

Prepared by the American Council for an Energy-Efficient Economy, September, 2005.

5. Explanation of Legislative Recommendation #7, Kansas Energy Report 2006

Provided by Scott White of the Kansas Geological Survey, January 10, 2006

6. Can We Just “Rely on the Market” to Provide Energy Efficiency?

AN EXAMINATION OF THE ROLE OF PRIVATE MARKET ACTORS
IN AN ERA OF ELECTRIC UTILITY RESTRUCTURING
EXECUTIVE SUMMARY

Martin Kushler, Ph.D. and Patti Witte, M.A.

September 2001 ACEEE Report Number U011

7. Energy Efficiency Options for the New England Demand Response Initiative (NEDRI) – Framing Paper #4

Excerpt from Ch. III. Pg 21-23 - *Energy Efficiency in a Market Framework*

Prepared for The New England Demand Response Initiative (NEDRI)

Prepared by Jeff Schlegel

Schlegel & Associates, LLC

1167 W. Samalayuca Drive

Tucson, Arizona 85704-3224

May 2002

8. Utility Cost Calculation Sheet for Kansas gas and electric information

based on Table 10. Class of Ownership, Number of Bundled Ultimate Consumers, Revenue, Sales, and Average Retail Price for All Sectors by State, Utility, 2004

http://www.eia.doe.gov/cneaf/electricity/esr/esr_sum.html

http://tonto.eia.doe.gov/dnav/ng/ng_cons_sum_a_EPG0_vgt_mmcf_a.htm

SAMPLE ESTIMATE OF UNIFORM CHARGE #1

If the charge were to be allocated half to electricity and half to gas

\$275,000 would come from electricity - the \$/kWh charge would be as follows:

$$\frac{\frac{1}{2} \text{ Fund target in } \$}{2004 \text{ kWh total sales}} = \frac{\$275,000}{37,022,257,000 \text{ kWh}} = \$0.000007428/\text{kWh}$$

Example calculation **for a typical residential electric customer**
who uses 9000 kWh per year (750 kWh per month x 12 months)

$$9000 \text{ kWh/yr} \times \$0.000007428/\text{kWh} = \$0.0669/\text{year} \text{ or } \underline{\underline{\text{about 7 cents per year}}}$$

\$275,000 would come from natural gas - the \$/MCF charge would be as follows

$$\frac{\frac{1}{2} \text{ Fund target in } \$}{2004 \text{ gas volume}} = \frac{\$275,000}{212,815,000 \text{ MCF}} = \$0.001292/\text{MCF}$$

Example calculation **for a typical residential gas customer**
who uses 60 MCF per year

$$60 \text{ MCF/yr} \times \$0.001292/\text{MCF} = \$0.0775/\text{yr} \text{ or } \underline{\underline{\text{about 8 cents per year}}}$$

Total additional annual cost for typical combined electric and gas customer

$$= \underline{\underline{\text{15 cents per year}}}$$

SAMPLE ESTIMATE OF UNIFORM CHARGE #2

If the charge were to be calculated based on total potential energy delivered from both sources- electricity and natural gas

The basis would be \$ per BTU delivered

$$\begin{aligned} \text{Electricity} & - 37,022,257,000 \text{ kwh} \times 3415 \text{ BTU/kwh} = 126,431,007,655,000 \text{ BTU} \\ & + \\ \text{Natural Gas} & - 212,815,000 \text{ MCF} \times 1,000,000 \text{ BTU/MCF} = \underline{212,815,000,000,000 \text{ BTU}} \\ \text{Total energy delivered} & = 339,246,007,655,000 \text{ BTU} \end{aligned}$$

$$\frac{\text{Fund target \$}}{\text{Total energy delivered}} = \frac{\$550,000}{339,246,007,655,000 \text{ BTU}} = 0.000000001621242 \text{ \$/BTU}$$

Example calculation **for a typical residential electric customer**
who uses 9000 kwh per year

$$9000 \text{ kwh/yr} \times 3415 \text{ BTU/kwh} \times 0.000000001621242 \text{ \$/BTU} = 0.0498 \text{ \$/yr or } \underline{\text{about 5 cents per year}}$$

Example calculation **for a typical residential gas customer**
who uses 60 MCF per year

$$60 \text{ MCF/yr} \times 1,000,000 \text{ BTU/MCF} \times 0.000000001621242 \text{ \$/BTU} = 0.0972 \text{ \$/yr or } \underline{\text{about 10 cents per year}}$$

Total additional annual cost for typical combined electric and gas customer

$$= \underline{\text{15 cents per year}}$$

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**2004 State-by-State Supplements to Energy Assistance
and Energy Efficiency**

Compiled by the LIHEAP Clearinghouse

Click [here](#) for an explanation of the state-by-state supplements table.

State	State Local	State System Benefit Funds		Fuel Funds Church Comm	Utility		Bulk Fuel Discount	Misc.	Total
		Rate Assistance	Energy Efficiency		Rate Assistance	Energy Efficiency			
AL				<u>\$2,879,880</u>	<u>\$1,708,788</u>				\$4,588,668
AK	<u>\$6,217,406</u>								\$6,217,406
AZ	<u>\$3,493,434</u>			<u>\$1,787,246</u>	<u>\$10,301,330</u>	<u>\$821,069</u>			\$16,403,079
AR				<u>\$664,711</u>	<u>\$1,110,619</u>				\$1,775,330
CA	<u>\$59,837</u>			<u>\$7,429,307</u>	<u>\$453,339,228</u>	<u>\$120,000,000</u>	<u>\$43,895</u>	<u>\$6,577,176</u>	\$587,449,443
CO	<u>\$14,339,853</u>			<u>\$5,431,167</u>		<u>\$2,489,400</u>			\$22,346,949
CT				<u>\$703,153</u>	<u>\$13,878,010</u>	<u>\$1,819,007</u>	<u>\$2,047,767</u>		\$18,447,937
DE		<u>\$662,750</u>		<u>\$458,336</u>					\$1,121,086
DC		<u>\$1,635,000</u>	<u>\$1,200,000</u>		<u>\$836,000</u>				\$3,671,000
FL	<u>\$1,300,000</u>			<u>\$485,276</u>					\$1,785,276
GA		<u>\$6,086,546</u>		<u>\$2,673,418</u>	<u>\$13,020,000</u>	<u>\$1,100,000</u>			\$22,879,964
ID						<u>\$2,225,000</u>			\$2,225,000
IL		<u>\$65,027,651</u>	<u>\$7,225,295</u>	<u>\$952,613</u>					\$80,805,559
IN	<u>\$7,030,661</u>			<u>\$4,305,965</u>	<u>\$135,000</u>	<u>\$343,679</u>	<u>\$107,024</u>	<u>\$39,620</u>	\$11,961,949
IA	<u>\$6,074,100</u>			<u>\$819,048</u>		<u>\$2,447,970</u>		<u>\$1,786</u>	\$9,342,904
KY	<u>\$386,039</u>			<u>\$1,008,679</u>	<u>\$499,821</u>	<u>\$205,649</u>		<u>\$5,811</u>	\$2,105,999
LA				<u>\$3,958,279</u>	<u>\$774,881</u>	<u>\$882,584</u>			\$5,615,744
ME	<u>\$725,619</u>	<u>\$7,341,342</u>	<u>\$1,100,000</u>	<u>\$331,713</u>			<u>\$1,530,374</u>	<u>\$1,284,817</u>	\$12,313,865
MD	<u>\$8,010,030</u>	<u>\$30,200,00</u>	<u>\$764,735</u>	<u>\$6,507,787</u>	<u>\$2,280,605</u>	<u>\$549,160</u>	<u>\$159,356</u>		\$48,471,673
MA		<u>\$48,268,150</u>	<u>\$17,040,510</u>	<u>\$257,770</u>			<u>\$2,772,280</u>		\$68,338,710
MI	<u>\$10,326,245</u>	<u>\$20,000,000</u>	<u>\$8,000,000</u>	<u>\$4,743,401</u>	<u>\$17,779,091</u>				\$60,848,737
MN	<u>\$44,044,274</u>			<u>\$6,031,580</u>	<u>\$4,921,019</u>	<u>\$4,229,322</u>	<u>\$147,947</u>	<u>\$24,925</u>	\$59,399,068
MS				<u>\$469,403</u>	<u>\$195,789</u>			<u>\$535,122</u>	\$1,200,314
MO				<u>\$8,370,208</u>		<u>\$500,000</u>			\$8,870,208
MT	<u>\$500,000</u>	<u>\$3,406,419</u>	<u>\$1,772,702</u>	<u>\$1,038,725</u>	<u>\$43,976</u>		<u>\$2,650</u>	<u>\$110,594</u>	\$6,875,066
NV	<u>\$153,238</u>	<u>\$3,350,212</u>	<u>\$2,605,640</u>	<u>\$288,856</u>	<u>\$25,053</u>	<u>\$1,300,000</u>			\$7,722,999
NH	<u>\$2,704,125</u>	<u>\$9,980,725</u>	<u>\$1,061,638</u>	<u>\$591,102</u>			<u>\$414,864</u>		\$14,752,454
NJ		<u>\$142,857,145</u>	<u>\$13,080,101</u>	<u>\$1,562,240</u>	<u>\$17,397,480</u>				\$174,896,966
NM	<u>\$400,000</u>			<u>\$308,762</u>			<u>\$1,726</u>		\$710,488
NY	<u>\$77,474,227</u>		<u>\$3,126,101</u>	<u>\$1,201,299</u>	<u>\$16,478,649</u>	<u>\$773,000</u>		<u>\$13,822,985</u>	\$112,876,261
NC	<u>\$810,856</u>			<u>\$2,776,613</u>	<u>\$153,923</u>		<u>\$1,272</u>		\$3,742,664
OH		<u>\$200,399,969</u>	<u>\$6,113,322</u>					<u>\$217,995</u>	\$206,731,286
OK					<u>\$2,111,518</u>				\$2,111,518
OR		<u>\$11,600,000</u>	<u>\$8,704,221</u>	<u>\$12,085,164</u>	<u>\$110,212</u>		<u>\$1,016,601</u>		\$33,516,198
PA		<u>\$212,545,027</u>	<u>\$21,786,380</u>	<u>\$6,559,519</u>					\$240,890,926
RI			<u>\$1,100,000</u>		<u>\$5,586,703</u>				\$6,686,703
SC				<u>\$485,276</u>					\$485,276

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SD	<u>\$193,920</u>			<u>\$146,680</u>			<u>\$146,740</u>	<u>\$93,670</u>	\$581,010
TX		<u>\$66,400,173</u>		<u>\$4,294,240</u>	<u>\$1,845,221</u>	<u>\$2,203,235</u>			\$74,742,869
UT					<u>\$1,700,758</u>				\$1,700,758
VT	<u>\$5,007,411</u>		<u>\$2,100,000</u>	<u>\$245,488</u>			<u>\$237,689</u>	<u>\$2,326</u>	\$7,592,914
VA	<u>\$633,199</u>			<u>\$1,357,908</u>	<u>\$180,050</u>				\$2,171,157
WA	<u>\$4,266,240</u>			<u>\$12,587,896</u>	<u>\$16,066,036</u>	<u>\$6,173,422</u>		<u>\$2,330,357</u>	\$41,423,951
WV	<u>\$3,000,000</u>								\$3,000,000
WI	<u>\$28,333</u>	<u>\$18,196,161</u>	<u>\$40,995,060</u>	<u>\$1,728,490</u>	<u>\$8,408,315</u>	<u>\$337,693</u>		<u>\$155,858</u>	\$69,849,910
WY	<u>\$375,000</u>								\$375,000
Totals	\$197,554,047	\$847,957,270	\$119,673,557	\$107,413,849	\$590,974,604	\$166,802,338	\$7,613,584	\$26,219,643	\$2,064,208,892

2003 State Supplements Table2002 - 2003 State Supplements Table2001 - 2002 State Supplements Table



Summary of Energy Efficiency Tax Incentives in Energy Policy Act of 2005

Product	Eligibility Level	Units	Amount of Incentive	Years Covered	Notes
Existing homes and other non-business applications					\$500 per taxpayer cap for existing home credits
Central air conditioners & heat pumps (air cooled)	15 SEER 12.5 or 13 EER 9.0 HSPF		\$300 for AC if meet SEER & EER \$300 for HP if meet SEER, EER & HSPF	2006 & 2007	EER to be decided by CEE in fall 2005.
Group-source heat pumps					
Closed loop	14.1/3.3	EER/COP	\$300	2006 & 2007	System must also provide water heating.
Open loop	16.2/3.6	EER/COP	\$300	2006 & 2007	System must also provide water heating.
Direct expansion (DX)	15/3.5	EER/COP	\$300	2006 & 2007	System must also provide water heating.
Water heaters (non-business applications)					
Electric	2.0	EF	\$300	2006 & 2007	
Gas and oil	0.8	EF	\$300		
Gas and oil furnaces and boilers					
High combustion efficiency equipment	95%	AFUE	\$150	2006 & 2007	Can earn either one or both incentive with the same unit.
High electric efficiency equipment	Meets CEE spec		\$50	2006 & 2007	CEE spec requires electricity use to be <=2% of site use.
Envelope improvements to existing homes					
Insulation, exterior doors, duct sealing and infiltration reduction	Meet 2003 IECC + supplements		10% up to \$500	2006 & 2007	Duct sealing and infiltration reduction probably included but final determination depends on detailed rules.
Windows and skylights	Same as above		10% up to \$200	2006 & 2007	
Pigmented metal roofs	Meet Energy Star spec		10% up to \$500	2006 & 2007	
Appliances					
Refrigerators					All appliance incentives go to manufacturer, not consumer; manufacturers are expected to reduce prices accordingly.
Save 15-19.9% relative to federal standard	Look to left		\$75	2006	
Save 20-24.9% relative to federal standard	Look to left		\$125	2006 & 2007	
Save 25% or more relative to federal standard	Look to left		\$175	2006 & 2007	
Clothes washers	2007 Energy Star		\$100	2006 & 2007	DOE has proposed 1.72 MEF and 8.0 WF for Energy Star.
Dishwashers	2007 Energy Star		TBD – based on final Energy Star	2006 & 2007	Incentive likely to be around \$30.
New homes					
Site-built or manufactured homes	50% savings		\$2,000	2006 & 2007	Incentives go to the builder, not the homebuyer.
Manufactured homes	30% savings or meets Energy Star		\$1,000	2006 & 2007 2006 & 2007	Savings relative to 2004 IECC. Savings relative to 2004 IECC.
Commercial buildings					
Whole building	50% savings		Deduction of \$1.80/sq.ft.	2006 & 2007	Deductions are not additive – maximum is \$1.80/sq.ft.
Lighting, HVAC or envelope	50% savings		Deduction of \$0.60/sq.ft. per system	2006 & 2007	Savings relative to ASHRAE 90.1-2001.
Lighting savings of at least 25%	25-50% savings		Sliding scale: \$.30/sq.ft. for 25% svgs	Unclear	Savings relative to ASHRAE 90.1-2001. Term of this provision depends on Treasury rulemaking.
Fuel cells and microturbines					
Fuel cells (business or individual credit)	30% efficiency		30% up to \$1000/kW	2006 & 2007	Systems >=0.5 kW for business credit. No size floor or efficiency requirements for individual credit.
Microturbines (only business credit)	26% efficiency		10% up to \$200/kW	2006 & 2007	Systems < 2000 kW.
Passenger vehicles	Complicated formula – see http://aceee.org/press/0508hybridtaxcr.htm				
Heavy-duty vehicles	Complicated formula – see http://aceee.org/transportation/hdhybtaxcred.htm				

Key: AC= air conditioner; AFUE= annual fuel utilization efficiency; ASHRAE = American Society of Heating, Refrigerating & Air-Conditioning Engineers; CEE = Consortium for Energy Efficiency
COP= coefficient of performance; EER= energy efficiency ratio; EF= energy factor; HP= heat pump; HSPF= heating season performance factor; IECC= International Energy Conservation Code
kW= kilowatt; MEF= modified energy factor; SEER= seasonal energy efficiency ratio.

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Explanation of Legislative Recommendation #7, *Kansas Energy Report 2006*
Provided by Scott White of the Kansas Geological Survey.
January 10, 2006

Legislative Recommendation Number 7 came out of the Kansas Energy Council's focus on energy conservation toward the end of the year. They thought there was a need for more public education on energy efficiency. I think they were intentionally vague because at the time, they did not have hard data on how to better educate the public. They did think that more education was needed for the general public, whether it is through continuing education (e.g. the Energy Extension at Kansas State University), or through an outreach organization (e.g. the Kansas Association of Conservation and Environmental Education [KACEE], or the Kansas Independent Oil and Gas Association [KIOGA] Educational Foundation, both of which put materials into schools). Energy education could be implemented by the State through existing infrastructure by requiring the Kansas Energy Office to distribute materials and manage an energy information website, or it could be provided through more public service announcements over the radio and advertisements on television. Technical assistance is another part of the recommendation. The idea behind this is that the average citizen, when it comes time to implement energy-saving measures (especially in their homes), may need to speak with a real person. Whether it's a person on-call to help the public, or some way to connect people with expertise in the private sector (licensed energy auditors, as one example) are possibilities.

The Kansas Energy Council thinks that education needs to be across the board. Natural gas needs to be a focus due to current high prices, but so does issues surrounding petroleum, bio-diesel, and other alternative energy sources. You cannot educate people without putting more money into it. In any case, it was the KEC's contention that if Kansas is going to be pro-active to educate the public on these matters, it will require increased spending. The amount of money and the extent of the public education and technical assistance efforts is up for discussion. Same for how to implement these things - the KEC didn't have the answers, but did believe that these were items that the Legislature should look into.

**Can We Just “Rely on the Market” to Provide Energy Efficiency?
AN EXAMINATION OF THE ROLE OF PRIVATE MARKET ACTORS
IN AN ERA OF ELECTRIC UTILITY RESTRUCTURING
Martin Kushler, Ph.D. and Patti Witte, M.A.
September 2001
ACEEE Report Number U011**

EXECUTIVE SUMMARY

With the movement toward restructuring the electric industry, some have argued that energy efficiency would be better accomplished by relying on market forces than by continuing government and regulatory requirements for energy efficiency programs. In response, others have argued that market barriers to energy efficiency are significant, with or without restructuring, and that energy efficiency programs should be continued. Underlying this debate is a key public policy question:

To what extent can private market forces be relied upon to achieve energy efficiency in the absence of long-standing utility and government efforts? The purpose of this study was to gather data to help address that question.

This study focused on three key groups of private sector market actors expected to be involved in the provision of energy efficiency services in a restructured electricity market: energy efficiency service companies; electricity commodity providers; and distribution utilities. Furthermore, in order to review market activities that have emerged to their maximum extent, the study specifically focused on nine states that were early implementers of electric restructuring—Arizona, California, Connecticut, Illinois, Massachusetts, Michigan, New York, Pennsylvania, and Rhode Island.

Data collection methodologies included website content analysis, document review, and nearly one hundred detailed telephone interviews (with representatives of each of those three key market actor groups plus a number of “expert” observers of the energy efficiency service industry).

Briefly stated, the key conclusions of this study are as follows.

First, while the energy services company (ESCO) industry performs a very valuable role in delivering energy efficiency in the United States, there are at least two important reasons why this industry could not be expected to step in and replace the role of government/ regulatory policies and programs in providing energy efficiency.

There are major gaps in the market segments reached by this industry. In particular, ESCOs generally have demonstrated little or no ability (or interest) in serving the residential or small commercial customer markets. To a lesser extent, ESCOs have also had some difficulty reaching the industrial customer market.

Even in the market sectors where ESCOs perform the best (institutional and larger commercial markets), the ESCO industry is in fact intricately involved with, and supported by, existing government/regulatory policies and funding programs for energy efficiency. Indeed, these policies and programs in substantial part helped create the ESCO industry and continue to play a major role in sustaining its work today.

Second, for a variety of reasons, the retail electricity commodity supplier industry has not

demonstrated itself to be an effective vehicle for achieving energy efficiency improvements. Significant challenges include a high failure rate among supplier firms, a mixed interest in energy efficiency among suppliers, a lack of commodity suppliers actually marketing tangible energy efficiency measures, and a lack of customer interest in obtaining energy efficiency from commodity suppliers (due to perceived conflict of interest and other reasons). Regardless of the specific causes, the vision of a robust supplier industry bundling the electricity commodity and energy efficiency to provide customers with lowest-cost energy solutions has simply not materialized.

Third, absent legislative or regulatory requirements (e.g., system benefit charge-funded programs, shareholder incentives for effective utility energy efficiency programs, etc.), there is strong evidence that in a restructured electric industry, utility companies will not choose to provide substantive energy efficiency programs. Rather, if they provide anything at all, they are much more likely to provide minimal "information" type programs, largely as a customer service and customer relations mechanism.

In summary, this study has found little evidence to support the premise that relying on private market actors to provide energy efficiency would be a superior approach and that government/regulatory policies and funding for energy efficiency can be phased out or eliminated. Indeed, after focusing on nine states that were early adopters of electric restructuring and gathering data from the three private market actors most prominently mentioned as entities that would "pick up the ball" and deliver energy efficiency in a restructured marketplace, this study supports conclusions contrary to that premise. Those private market actors each face significant limitations in their interest and ability to deliver energy efficiency and have thus far demonstrated no realistic capability to replace government/regulatory policies and programs to provide energy efficiency.

Ironically, continued government/regulatory policies and programs to support energy efficiency would actually play an important role in enhancing the ability of those entities to provide energy efficiency in the marketplace. Therefore, it appears that the proper question is not: Can private market actors replace government/regulatory policies and programs? but rather: How can government/regulatory policies and programs help maximize the energy efficiency provided by these market actors?

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Energy Efficiency Options for the New England Demand Response Initiative (NEDRI) – Framing Paper #4

Prepared for The New England Demand Response Initiative (NEDRI)

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III. Energy Efficiency in a Market Framework

If energy efficiency is so beneficial to customers and society, and if it can be achieved at costs less than supply resources, why isn't more energy efficiency being implemented in private competitive markets in New England?

The answers to this question lie in (1) market barriers to private investment in energy efficiency, and (2) market and institutional barriers to energy efficiency being used as a system resource. This section summarizes market barriers to private investment, market and institutional barriers to achieving the public and system benefits of energy efficiency, and the market orientation of energy efficiency programs.

A. Market Barriers

Cost-effective energy efficiency resources in New England are often untapped in the private competitive market due to significant market barriers faced by customers and other market participants (e.g., retailers, distributors, manufacturers, builders, contractors, and property managers). These market barriers include information or search costs, hassle and transaction costs, performance uncertainties, market response uncertainties, asymmetric information and opportunism, product or service unavailability, infrastructure limitations, uneven product quality, limited access to financing, bounded rationality (behavior during the decision making process that appears to be inconsistent with stated goals), organizational practices or customs, split incentives, inseparability of product features, irreversibility, the failure of prices to reflect the time-differentiated nature of demand and energy use, and the failure of market electricity prices to reflect the full cost of energy to society including environmental and social externalities.

Some large customers see electricity as a commodity, and they are willing to shop for better prices or for other alternatives. But most small customers see energy as a service, and generally they do not shop for or consider other choices. Also, energy efficiency is more of a product or service attribute, rather than a distinct product or service with its own market. Even when customers are interested in exploring alternatives, the market barriers listed above limit their ability to consider and adopt energy efficiency products and services. These market barriers also limit the perceived viability of and market size for energy efficiency products and services in the minds of manufacturers and suppliers. Even in competitive retail electric market systems proposed by restructuring advocates, most of these market barriers to energy efficiency will remain. The failure of prices to

reflect the time-differentiated nature of demand and energy use appears to be the only market barrier in the above list that will be substantially reduced. Therefore, most of the cost-effective energy efficiency resources that could provide net benefits to New England and its customers will not be acquired in the competitive market, absent intervention. The end result of a competitive-market-only approach would be an electricity market with higher societal costs for electric energy services, higher customer bills, less efficiency, fewer jobs, and more environmental damage.

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B. Institutional Barriers

In addition to the market barriers summarized above, there are several institutional barriers to energy efficiency being used as a system resource in the developing power markets:

In general, wholesale energy markets are just beginning to build in a demand-side, with almost all focus to date on demand response on short-term (day ahead) commodity markets.

Currently, market development has a short-term commodity and price focus versus a longer-term resources and value focus.

Energy efficiency resources are not dispatchable in the manner that generation resources are.

The public nature of some energy efficiency benefits versus the private nature of the customer investments.

The timing and nature of energy efficiency investments (payment upfront) versus the benefit stream (benefits accrue over time).

De-integration of the electricity system into component parts.

No integrated least cost planning to assess alternatives to supply options.

No institutional forum or filing process for policy-makers to react to (unlike generation plant or transmission line siting).

Kushler and others have concluded that special public policy emphasis is necessary to make energy efficiency programs happen in the developing market structure, even relative to other demand response efforts such as load management, in order to achieve the public and consumer benefits of energy efficiency (Kushler et al, 2002).

C. Market Orientation of Energy Efficiency Programs

Publicly-funded energy efficiency programs can change or transform markets so that market barriers are reduced, and the level of energy efficiency adopted in the competitive market is increased. Most energy efficiency programs are market-oriented, in that the programs leverage and focus on naturally-occurring market opportunities, such as increasing energy efficiency when buying or building a new home, designing and building a new office building or facility, purchasing a new appliance, replacing old or failed equipment, modifying an industrial process, buying or replacing a heating or cooling system, or remodeling a home or business. The programs work with the market by focusing on market opportunities, working with market actors, reducing market barriers, and increasing opportunities for and adoption of energy efficiency.

The actual provision of energy efficiency services supported with system benefits or other funds can be competitive, and generally is competitive in the New England states.

Contractors provide many program services, and, in general, these contractors are selected using competitive solicitations. This competitive outsourcing approach helps to develop an infrastructure in the private market.

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Energy efficiency programs in the past have been instrumental in transforming some markets, increasing the market adoption of energy efficient products and services, and making energy efficiency more of a standard practice in the competitive market. For example, in commercial lighting, T-8 lamps and electronic ballasts became standard practice in owner-occupied office buildings and other facilities after significant efforts by utility energy efficiency programs in many states, including financial incentives, information and technical assistance, contractor training, and testing and program standards to ensure quality equipment and installation. On the residential side, there have been significant increases in the energy efficiency of new air conditioners, refrigerators, clothes washers, and other appliances over the last 20 years, driven in part by publicly funded energy efficiency programs. These efficiency improvements were then extended to all new products through state or federal appliance efficiency standards.

Table 10. Class of Ownership, Number of Bundled Ultimate Consumers, Revenue, Sales, and Average Retail Price for All Sectors by State, Utility, 2004

Electric Utility	State	Class of Ownership	Number of Consumers	Revenue (thousand dollars)	Sales (megawatthours)	Average Retail Price (cents/kWh)	Total Revenue Generation	Annual Cost Per Customer
							\$0.000007	\$0.000007
Alfalfa Electric Coop, Inc	KS	Cooperative	816	858	9,541	8.99	\$70.87	\$0.09
Ark Valley Elec Coop Assn, Inc	KS	Cooperative	4,908	8,130	75,882	10.71	\$563.64	\$0.11
astern Electric Coop Inc	KS	Cooperative	6,555	8,507	83,555	10.18	\$620.64	\$0.09
n-Atchison E C A Inc	KS	Cooperative	3,115	5,718	71,061	8.05	\$527.83	\$0.17
ar Rural El Coop Assn, Inc	KS	Cooperative	6,521	10,123	103,001	9.83	\$765.08	\$0.12
aney Valley El Coop Assn, Inc	KS	Cooperative	5,231	5,795	47,761	12.13	\$354.76	\$0.07
CMS Electric Coop Inc	KS	Cooperative	5,398	8,960	84,329	10.63	\$626.39	\$0.12
D S & O Rural E C A, Inc	KS	Cooperative	7,309	9,832	103,914	9.46	\$771.86	\$0.11
Doniphan Elec Coop Assn, Inc	KS	Cooperative	1,651	1,301	16,369	7.95	\$121.59	\$0.07
Flint Hills Rural E C A, Inc	KS	Cooperative	6,024	7,496	67,923	11.04	\$504.53	\$0.08
Heartland Rural Elec Coop, Inc	KS	Cooperative	10,611	13,987	130,768	10.70	\$971.33	\$0.09
Kaw Valley Electric Coop Inc	KS	Cooperative	8,736	10,374	128,348	8.08	\$953.36	\$0.11
Lane-Scott Electric Coop, Inc	KS	Cooperative	2,697	5,476	56,127	9.76	\$416.91	\$0.15
Leavenworth-Jefferson E C, Inc	KS	Cooperative	7,805	10,537	104,119	10.12	\$773.39	\$0.10
Lyon-Coffey Electric Coop, Inc	KS	Cooperative	7,139	9,086	85,496	10.63	\$635.06	\$0.09
Midwest Energy Inc	KS	Cooperative	45,595	80,258	1,093,231	7.34	\$8,120.41	\$0.18
Nemaha-Marshall E C A, Inc	KS	Cooperative	3,320	3,062	41,202	7.43	\$305.04	\$0.09
Ninnescah Rural E C A Inc	KS	Cooperative	3,551	5,943	51,846	11.46	\$385.11	\$0.11
Pioneer Electric Coop, Inc	KS	Cooperative	14,830	39,513	586,455	6.74	\$4,356.13	\$0.29
Prairie Land Electric Coop Inc	KS	Cooperative	8,550	11,527	114,397	10.08	\$849.73	\$0.10
Radiant Electric Coop, Inc	KS	Cooperative	4,028	5,108	48,258	10.58	\$358.46	\$0.09
Rolling Hills Electric Coop	KS	Cooperative	10,674	12,630	111,410	11.34	\$827.54	\$0.08
Sedgwick Cnty El Coop Assn Inc	KS	Cooperative	5,227	8,614	95,860	8.99	\$712.04	\$0.14
Sumner-Cowley Elec Coop, Inc	KS	Cooperative	4,459	7,614	63,158	12.06	\$469.13	\$0.11
Tri-County Electric Coop, Inc	KS	Cooperative	15	16	132	12.12	\$0.98	\$0.07
Twin Valley Electric Coop Inc	KS	Cooperative	2,521	3,136	27,262	11.50	\$202.50	\$0.08
Victory Electric Coop Assn Inc	KS	Cooperative	4,400	10,220	135,406	7.55	\$1,005.78	\$0.23
Western Coop Electric Assn Inc	KS	Cooperative	4,803	10,444	116,485	8.97	\$865.24	\$0.18
Wheatland Electric Coop, Inc	KS	Cooperative	17,197	38,721	457,946	8.46	\$3,401.58	\$0.20
Western Area Power Administration	KS	Federal	3	1	59	1.69	\$0.44	\$0.15
Aquila Inc	KS	Investor Owned	68,586	129,752	1,811,047	7.16	\$13,452.28	\$0.20
Empire District Electric Co	KS	Investor Owned	10,311	15,730	238,910	6.58	\$1,774.60	\$0.17
Kansas City Power & Light Co	KS	Investor Owned	225,441	372,478	5,864,441	6.35	\$43,560.48	\$0.19
Kansas Gas & Electric Co	KS	Investor Owned	300,377	552,460	9,138,913	6.05	\$67,882.93	\$0.23
Southwestern Public Service Co	KS	Investor Owned	1,479	1,669	21,499	7.76	\$159.69	\$0.11
Westar Energy Inc	KS	Investor Owned	349,689	509,341	9,225,171	5.52	\$68,523.65	\$0.20
City of Alma	KS	Public	484	848	12,185	6.96	\$90.51	\$0.19
City of Altamont	KS	Public	553	665	7,892	8.43	\$58.62	\$0.11
City of Anthony	KS	Public	1,954	2,107	25,745	8.18	\$191.23	\$0.10
City of Arcadia	KS	Public	200	185	2,036	9.09	\$15.12	\$0.08
City of Arma	KS	Public	823	1,044	10,839	9.63	\$60.51	\$0.10
City of Ashland	KS	Public	705	912	8,830	10.33	\$65.59	\$0.09
City of Attica	KS	Public	463	593	5,986	9.91	\$44.46	\$0.10
City of Augusta	KS	Public	4,710	5,656	61,218	9.24	\$454.72	\$0.10
City of Axtell	KS	Public	232	179	2,474	7.24	\$18.38	\$0.08
City of Baldwin City	KS	Public	1,672	3,167	26,647	11.89	\$197.93	\$0.12
City of Belleville	KS	Public	1,341	2,070	18,997	10.90	\$141.11	\$0.11
City of Beloit	KS	Public	2,199	3,145	41,872	7.51	\$311.02	\$0.14
City of Blue Mound	KS	Public	174	258	1,894	13.62	\$14.07	\$0.08
City of Bronson	KS	Public	168	145	1,778	8.16	\$13.21	\$0.08
City of Burlingame	KS	Public	603	654	7,685	8.51	\$57.08	\$0.09
City of Burlington	KS	Public	1,570	2,077	29,824	6.96	\$221.53	\$0.14
City of Cawker City	KS	Public	433	463	4,320	10.72	\$32.09	\$0.07
City of Centralia	KS	Public	300	314	3,524	8.91	\$26.18	\$0.09
City of Chanute	KS	Public	5,665	17,658	280,138	6.30	\$2,080.84	\$0.37
City of Chapman	KS	Public	650	731	8,498	8.60	\$63.12	\$0.10
City of Chetopa	KS	Public	792	1,010	10,307	9.80	\$76.56	\$0.10
City of Cimarron	KS	Public	1,051	1,495	14,754	10.13	\$109.59	\$0.10
City of Clay Center	KS	Public	2,801	3,578	45,568	7.85	\$338.47	\$0.12
City of Coffeyville	KS	Public	6,931	29,782	701,841	4.24	\$5,213.20	\$0.75
City of Colby	KS	Public	2,928	4,200	54,903	7.65	\$407.81	\$0.14
City of Dighton	KS	Public	786	858	8,474	10.13	\$62.94	\$0.08
City of Ellinwood	KS	Public	1,341	1,376	14,364	9.58	\$106.69	\$0.08
City of Elsmore	KS	Public	59	42	439	9.57	\$3.26	\$0.06
City of Elwood	KS	Public	529	601	6,308	9.53	\$46.86	\$0.09
City of Enterprise	KS	Public	379	364	4,069	8.95	\$30.22	\$0.08

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Electric Utility	State	Class of Ownership	Number of Consumers	Revenue (thousand dollars)	Sales (megawatthours)	Average Retail Price (cents/kWh)	Total Revenue Generation		Annual Cost Per Customer	
							\$0.000007	\$0.000007	\$0.000007	\$0.000007
City of Eudora	KS	Public	2,262	2,526	33,392	7.56		\$248.03	\$0.11	
City of Fredonia	KS	Public	1,701	2,342	22,298	10.50		\$165.63	\$0.10	
City of Galva	KS	Public	402	393	4,741	8.29		\$35.22	\$0.09	
City of Garden City	KS	Public	11,082	15,122	190,073	7.96		\$1,411.84	\$0.13	
City of Gardner	KS	Public	5,095	6,715	81,987	8.19		\$608.99	\$0.12	
City of Garnett	KS	Public	1,952	2,217	25,007	8.87		\$185.75	\$0.10	
City of Glasco	KS	Public	395	300	3,302	9.09		\$24.53	\$0.06	
City of Glen Elder	KS	Public	363	351	4,135	8.49		\$30.71	\$0.08	
City of Goodland	KS	Public	2,799	4,175	47,915	8.71		\$355.91	\$0.13	
City of Greensburg	KS	Public	1,017	1,433	13,299	10.78		\$98.78	\$0.10	
City of Haven	KS	Public	506	830	10,116	8.20		\$75.14	\$0.15	
City of Herington	KS	Public	1,471	1,846	18,653	9.90		\$138.55	\$0.09	
City of Herndon	KS	Public	158	8	889	0.90		\$6.60	\$0.04	
City of Hill City	KS	Public	1,127	1,162	12,812	9.07		\$95.17	\$0.08	
City of Hillsboro	KS	Public	1,419	1,914	20,193	9.48		\$149.99	\$0.11	
City of Hoisington	KS	Public	1,522	2,104	21,271	9.89		\$158.00	\$0.10	
City of Holton	KS	Public	2,369	2,828	42,296	6.69		\$314.17	\$0.13	
City of Holyrood	KS	Public	312	299	2,982	10.03		\$22.15	\$0.07	
City of Horton	KS	Public	1,049	1,260	12,487	10.09		\$92.75	\$0.09	
City of Hugoton	KS	Public	1,930	2,969	28,259	10.51		\$209.91	\$0.11	
City of Iola	KS	Public	3,857	5,885	115,692	5.09		\$859.35	\$0.22	
City of Isabel	KS	Public	73	81	752	10.77		\$5.59	\$0.08	
City of Iuka	KS	Public	118	138	1,670	8.26		\$12.40	\$0.11	
City of Jetmore	KS	Public	610	550	7,798	7.05		\$57.92	\$0.09	
City of Johnson	KS	Public	825	1,350	12,851	10.51		\$95.46	\$0.12	
City of Kansas City	KS	Public	64,494	141,271	2,338,141	6.04		\$17,367.48	\$0.27	
City of Kiowa	KS	Public	753	1,212	10,063	12.04		\$74.75	\$0.10	
City of La Crosse	KS	Public	878	925	9,893	9.35		\$73.48	\$0.08	
City of La Harpe	KS	Public	336	276	3,174	8.70		\$23.58	\$0.07	
City of Lakin	KS	Public	1,025	1,383	12,828	10.78		\$95.29	\$0.09	
City of Larned	KS	Public	2,621	2,929	34,594	8.47		\$256.96	\$0.10	
City of Lincoln Center	KS	Public	909	994	11,731	8.47		\$87.14	\$0.10	
City of Lindsborg	KS	Public	1,677	2,105	25,924	8.12		\$192.56	\$0.11	
City of Lucas	KS	Public	313	452	4,138	10.92		\$30.74	\$0.10	
City of Luray	KS	Public	157	139	1,215	11.44		\$9.02	\$0.06	
City of Marion	KS	Public	1,217	1,122	15,203	7.38		\$112.93	\$0.09	
City of Meade	KS	Public	999	1,640	13,967	11.74		\$103.75	\$0.10	
City of Minneapolis	KS	Public	1,112	1,251	16,030	7.80		\$119.07	\$0.11	
City of Montezuma	KS	Public	519	951	8,633	11.02		\$64.13	\$0.12	
City of Moran	KS	Public	302	409	5,029	8.13		\$37.35	\$0.12	
City of Morrill	KS	Public	158	95	1,168	8.13		\$8.68	\$0.05	
City of Moundridge	KS	Public	879	1,541	26,393	5.84		\$196.04	\$0.22	
City of Mulberry	KS	Public	280	293	2,497	11.73		\$18.55	\$0.07	
City of Mulvane	KS	Public	2,437	2,709	36,641	7.39		\$272.17	\$0.11	
City of Muscotah	KS	Public	106	82	815	10.06		\$6.05	\$0.06	
City of Neodesha	KS	Public	1,651	3,343	41,753	8.01		\$310.14	\$0.19	
City of Norton	KS	Public	1,796	2,139	24,800	8.63		\$184.21	\$0.10	
City of Oakley	KS	Public	1,302	1,585	18,756	8.45		\$139.32	\$0.11	
City of Oberlin	KS	Public	1,286	1,299	13,157	9.87		\$97.73	\$0.08	
City of Osage City	KS	Public	1,665	2,113	23,224	9.10		\$172.51	\$0.10	
City of Osborne	KS	Public	1,012	1,092	14,005	7.80		\$104.03	\$0.10	
City of Oxford	KS	Public	602	654	8,475	7.72		\$62.95	\$0.10	
City of Pomona	KS	Public	547	514	6,469	7.95		\$48.05	\$0.09	
City of Pratt	KS	Public	3,966	7,680	69,299	11.08		\$514.75	\$0.13	
City of Prescott	KS	Public	130	149	1,761	8.46		\$13.08	\$0.10	
City of Radium	KS	Public	23	18	232	7.76		\$1.72	\$0.07	
City of Robinson	KS	Public	140	83	1,172	7.08		\$8.71	\$0.06	
City of Russell	KS	Public	3,301	6,877	105,073	6.54		\$780.47	\$0.24	
City of Sabetha	KS	Public	1,723	3,116	43,437	7.17		\$322.65	\$0.19	
City of Savonburg	KS	Public	59	44	447	9.84		\$3.32	\$0.06	
City of Scranton	KS	Public	333	338	4,295	7.87		\$31.90	\$0.10	
City of Seneca	KS	Public	1,228	1,677	24,358	6.88		\$180.93	\$0.15	
City of Seward	KS	Public	44	78	860	9.07		\$6.39	\$0.15	
City of Sharon Springs	KS	Public	566	740	6,332	11.69		\$47.03	\$0.08	
City of St Francis	KS	Public	1,027	997	9,363	10.65		\$69.55	\$0.07	
City of St Marys	KS	Public	1,004	1,369	17,152	7.98		\$127.40	\$0.13	
City of Stafford	KS	Public	763	695	8,962	7.75		\$66.57	\$0.09	
City of Sterling	KS	Public	1,169	1,497	17,308	8.65		\$128.56	\$0.11	
City of Stockton	KS	Public	992	1,194	12,835	9.30		\$95.34	\$0.10	

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Electric Utility	State	Class of Ownership	Number of Consumers	Revenue (thousand dollars)	Sales (megawatthours)	Average Retail Price (cents/kWh)	Total Revenue Generation	Annual Cost Per Customer
							\$0.000007	\$0.000007
City of Toronto	KS	Public	253	167	1,741	9.59	\$12.93	\$0.05
City of Troy	KS	Public	590	552	6,726	8.21	\$49.96	\$0.08
City of Udall	KS	Public	371	517	5,398	9.58	\$40.10	\$0.11
City of Vermillion	KS	Public	102	79	643	12.29	\$4.78	\$0.05
City of Wamego	KS	Public	2,057	3,018	36,730	8.22	\$272.83	\$0.13
City of Waterville	KS	Public	455	417	4,785	8.71	\$35.54	\$0.08
City of Wathena	KS	Public	671	675	7,775	8.68	\$57.75	\$0.09
City of Wellington	KS	Public	4,352	9,292	112,606	8.25	\$836.43	\$0.19
City of Winfield	KS	Public	8,194	17,198	259,270	6.63	\$1,925.83	\$0.24
Erie City of	KS	Public	713	905	9,464	9.56	\$70.30	\$0.10
Girard City of	KS	Public	1,685	2,959	32,492	9.11	\$241.35	\$0.14
Kingman City of	KS	Public	1,932	4,938	45,757	10.79	\$339.88	\$0.18
Mankato City of	KS	Public	638	659	7,273	9.06	\$54.02	\$0.08
McPherson City of	KS	Public	8,312	23,930	693,332	3.45	\$5,150.00	\$0.62
Mount Hope City of	KS	Public	370	450	5,179	8.69	\$38.47	\$0.10
Osawatomie City of	KS	Public	2,119	2,448	28,580	8.57	\$212.29	\$0.10
Ottawa City of	KS	Public	6,014	8,282	120,480	6.87	\$894.91	\$0.15
St John City of	KS	Public	894	924	9,761	9.47	\$72.50	\$0.08
Town of Summerfield	KS	Public	138	100	1,537	6.51	\$11.42	\$0.08
Washington City of	KS	Public	749	983	11,565	8.50	\$85.90	\$0.11

Total Kansas Retail Electric Revenue in 2004 \$2,358,955,000 \$274,997.62 \$0.12
Total Kansas Retail Electric Sales in 2004 in kwh 37,022,257,000
Source http://www.eia.doe.gov/cneaf/electricity/esr/esr_sum.html

Gas Volumes - total Kansas MCF in 2004 delivered to ultimate consumers 212,815,000
Source http://tonto.eia.doe.gov/dnav/ng/ng_cons_sum_a_EPG0_vgt_mmcf_a.htm

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Testimony in Support of H.B. 2934
Concerning energy conservation and efficiency
Before the Kansas House Utilities Committee
On Behalf of the Kansas Chapter of Sierra Club
February 20, 2006

Mr. Chairman, members of the Committee, thank you for the opportunity to present written testimony in support of H.B. 2934 on behalf of the Sierra Club – the oldest and largest grass roots environmental organization in the world with over 750,000 members, including over 4,000 in Kansas. Sierra Club supports public policies that encourage the more efficient use of energy from all sources.

H.B. 2934 will:

- provide a state contribution to low-income home weatherization activities and increase the number of homes served in Kansas;
- provide technical information and assistance for Kansans to take advantage of tax credits and other programs in the Federal Energy Policy Act of 2005;
- implement the recommendation from the Kansas Energy Council to increase spending on current energy-related technical assistance and public education efforts to promote the efficient utilization of all energy resources in Kansas.

Sierra Club encourages the House Utilities Committee to report H.B. 2934 favorably for passage by the full House of Representatives.

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

HOUSE UTILITIES
DATE: 2/20/06
ATTACHMENT 9

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



State of Kansas

Kathleen Sebelius, Governor

David Springe, Consumer Counsel
1500 S.W. Arrowhead Road
Topeka, Kansas 66604-4027
Phone: (785) 271-3200
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<http://curb.kcc.state.ks.us/>

HOUSE UTILITIES COMMITTEE

H.B. 2934

Testimony on Behalf of the Citizens' Utility Ratepayer Board

By David Springe, Consumer Counsel

February 20, 2006

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2934. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

This bill places a new tax on electric and natural gas customers in the state to fund the state weatherization fund and the energy efficiency technical assistance fund. While the tax is small at this point, a maximum of \$550,000 annually, CURB is concerned that it will not stay small. Realistically, \$550,000 to fund these two programs, one of which is dealing with weatherization across the state, is not an adequate. CURB is concerned that this is the proverbial camel's nose under the tent. Once the funds are created, it will simply be an annual legislative exercise to seek to increase the tax or the reach of the programs funded by the tax.

While the tax is to be a uniform charge to all electric and natural gas customers in the state, including all cooperative and municipal utilities across the state, CURB is concerned that it will cost more across the state to implement a process to collect this tax than the tax will actually generate in revenues. Also, the bill makes the state corporation commission the entity that is to collect this tax. The corporation commission has no jurisdiction over many of these entities, which may make collection of the tax difficult. If the committee believes that these two funds are in need of \$550,000, it would be most efficient to draw this money from the state general fund.

The bill also requires the corporation commission calculate the amount of the charge based on the following: utility, class of utility, number of bundled ultimate customers, revenues, sales and average retail price for all classes of customer. However the bill is unclear how these disparate factors are to be used. This appears to suggest that different charges could be made based on these factors, which would be inconsistent with the requirement that a "uniform charge" be imposed. Some clarity should be provided if this bill moves forward.

CURB is not against weatherization or energy efficiency. However, CURB is concerned that programs like this not be created and funded without certain restrictions which are not present in this bill. CURB is willing to work towards finding appropriate methods to implement cost effective and equitable programs, but does not believe this bill accomplishes this task. CURB urges the committee to not pass this bill.

HOUSE UTILITIES

DATE:

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ATTACHMENT

10



Kansas Electric Power Cooperative, Inc.

HOUSE UTILITIES COMMITTEE H.B. 2934

Testimony on behalf of Kansas Electric Power Cooperative, Inc. (KEPCo)
February 20, 2006

Mr. Chairman and members of the committee:

I am Phil Wages, Director of Member Services and External Affairs for Kansas Electric Power Cooperative. KEPCo is a not-for-profit generation and transmission utility, providing electricity to nineteen member rural electric cooperatives serving the eastern two-thirds of the state.

KEPCo stands in opposition of this bill for the following two reasons. First, the language in the bill referencing the data to be used to assess the charges to the utilities raises concerns that the fees collected from the calculation of the data may not be equitable among all utilities.

Second, there does not appear to be a provision in the bill to keep the fee assessed to KEPCo from being used to improve the efficiency of other utility systems. If the monies collected are allocated disproportionately among participating utilities, KEPCo would be subsidizing the improved energy efficiency of other utility's customers and conservation of energy for other utilities.

I would also like to express that KEPCo is an advocate of energy efficiency and energy conservation programs. Since 1987, KEPCo has administered a highly successful energy efficiency rebate program for the purchase and installation of electric water heaters, air source heat pumps, and ground source heat pumps. Since the program's inception, KEPCo has provided rebates on over 12,000 electric water heaters and over 4,400 heat pumps. This program has helped KEPCo member systems, and KEPCo, reduce peak energy consumption.

Also, in 2001, KEPCo installed a Supervisory Control and Data Acquisition System (SCADA) that allows KEPCo to monitor its loads in real time (every four seconds). This has enabled KEPCo to accurately forecast peak loads and alert KEPCo members as such, which enables the member cooperative to shed load during peak times, in addition to using the system for other energy conservation measures as well.

In closing, KEPCo believes that the imposition of a surcharge to utility bills for weatherization and efficiency programs could lead to a reduction in such programs that utilities have already successfully implemented and, if the surcharge was implemented, there is no assurance that a KEPCo member would benefit.

Mr. Chairman, this concludes my testimony and I stand for questions.

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A Touchstone Energy Cooperative

HOUSE UTILITIES

DATE:

2/20/06

ATTACHMENT

11

TESTIMONY OF KANSAS ELECTRIC COOPERATIVES, INC.

House Utilities Committee

February 20, 2006

House Bill 2934

Kansas Electric Cooperatives, Inc. (KEC) submits this testimony in opposition to HB 2934. KEC is the statewide association for thirty rural electric cooperatives operating in the state of Kansas.

HB 2934 would impose a surcharge on electric and gas bills to generate up to \$550,000 annually. The money generated would fund weatherization and energy efficiency programs administered by the Kansas Housing Resources Corporation and the State Corporation Commission, respectively. While the aims of the bill are laudable and weatherization and energy efficiency important objectives, funding for programs of this nature should not be generated by utility surcharges. To do so could have the effect of discouraging continued investment in the same types of programs by utilities.

Many utilities, including electric cooperatives, have weatherization programs, incentives for efficient use of energy and other resources available to aid consumers. These programs are tailored locally to the individual aims of the utility and the ratepayers of that utility. HB 2934 would discourage continued investment in these programs, since the ratepayers would then fund two separate programs...those mandated by this bill and those already in place at the utility. At a time when upward pressure on utility rates seems likely, all costs must be scrutinized.

Collecting funds through utility rates is not the fairest means of achieving the goal of this bill. High use customers, even commercial and industrial customers, will disproportionately contribute to a fund that exists for the apparent benefit of residential consumers. Instead, if programs of the type outlined in the bill are a desirable aim of the committee, the resources for the program should come from the state general fund and not from surcharges to utility bills.

Thank you for the opportunity to present this testimony.

HOUSE UTILITIES

DATE:

2/20/06

ATTACHMENT

12

**Testimony on HB 2934 before the
House Utilities Committee
By
Mark Schreiber, Manager Government Affairs
Westar Energy
February 20, 2006**

Chairman Holmes and members of the committee, I am Mark Schreiber, manager government affairs for Westar Energy.

House Bill 2934 proposes a usage-based charge for all industrial, commercial and residential electric and gas consumers in the state to fund state weatherization and energy efficiency assistance. The amount of money to be collected is about \$550,000. The Kansas Housing Resources Corporation (a subsidiary of the Kansas Development Finance Authority) and the Kansas Corporation Commission (KCC) would administer the funds.

Westar Energy is neutral on the bill. The service we provide to our customers is not impacted by the additional proposed charge on their bills. However, if state policymakers believe this is a social issue that needs to be addressed, then we believe a statewide tax should be implemented so all Kansas taxpayers participate. The funding provisions now in the bill do not seem to bear any relation to the statewide policy nature of weatherization and energy efficiency assistance. The amount of money estimated at this time by the bill is modest.

Westar Energy believes the wise use of energy is beneficial for the consumer and the state. Utilities routinely offer energy efficiency advice to their customers through the mail and on their websites. Utility employees volunteer their time to weatherize homes in their hometowns. If consumers need additional advice, the local public library or K-State Engineering Extension Office can provide more material. If one goes online and Googles "energy efficiency" over 100 million hits are returned. Energy efficiency advice is readily available.

Our concern with the bill is based only on the funding mechanism. We believe that if state policymakers believe the state's residents need additional assistance, then a funding mechanism should be developed that allows each taxpayer to contribute. Rather than basing the contribution on the amount of energy they use, a uniform statewide tax should be instituted to pay for the proposed funds.

Thank you for the opportunity to provide testimony on House Bill 2934.

HOUSE UTILITIES
DATE: 2/20/06
ATTACHMENT 13

KANSAS WEATHERIZATION ASSISTANCE PROGRAM

Administered by the Kansas Housing Resources Corporation, the Kansas Weatherization Assistance Program assists low-income families with home repairs in order to lower energy bills. The Program is currently funded by the U.S. Department of Energy and a portion of the state's Low Income Energy Assistance Program (LIEAP).

How it Works:

The Program provides nine grants to not-for-profit agencies and local units of government throughout the state to provide weatherization services. The agencies accept applications, ensure income eligibility, and either provide the weatherization services or ensure that a contractor completes them.

During the 2004 funding cycle, Grantee agencies weatherized 1413 homes, benefiting approximately 3,750 low-income Kansas residents. Based on state utility figures, this is expected to result in an average 21% lower energy usage per home.

Routine weatherization includes a computerized physical inspection of the home to identify cost-effective improvements. Depending on the individual home's needs, this may include a furnace tune-and-clean; general sealing of air leaks; installation of insulation in the attic, sidewalls, and perimeter of the home; and other improvements which would preserve weatherization materials that are installed. In addition, weatherization includes attention to health and safety, such as assuring a safe furnace and moisture control in the home.

Who it Helps:

Weatherization improvements are made to single-family and multi-family homes, mobile homes [or manufactured housing], and emergency shelters for the homeless. The improvements are intended to reduce energy consumption and improve living conditions for the residents. The program targets the elderly, persons with disabilities, and families with children. Income eligibility is determined by the federal poverty guidelines.

Conclusion

With increases in energy prices anticipated and President Bush's budget proposing 30% cuts in Department of Energy funding for weatherization programs, additional sources of funding may be necessary for the continuation of the program at its current capacity.

The Kansas Weatherization Program has identified other areas of potential energy savings for low-income homes, including refrigerator replacement. Additional funding streams would promote continuation of this successful program and allow expansion into other areas of energy savings.

HOUSE UTILITIES

DATE:

2/20/06

ATTACHMENT

14

**Testimony on HB 2927 before the
House Utilities Committee**

By

Mark Schreiber, Manager Government Affairs

Westar Energy

February 20, 2006

Chairman Holmes and members of the committees, I am Mark Schreiber, manager government affairs for Westar Energy. Westar Energy supports House Bill 2927 along with Midwest Energy, Kansas City Power and Light, Kansas Gas Service and Aquila.

House Bill 2927 provides for a defined starting point for the collection of municipal franchise fees by the electric or gas utility for an annexed area. Currently, cities are not required to notify utilities of the annexation of property. The current situation causes confusion and also causes municipalities not to collect franchise fees from citizens who benefit from utilities using city rights of way. In cases where a utility goes several months without knowing of an annexation, it must either request payment for franchise fees from the annexed residents beginning at the time of annexation or pay the past fees if re-billing is too costly. This bill helps assure that the correct franchise fees will be collected and remitted to municipalities immediately following annexations. It protects the interests of cities, their citizens, and utilities.

Westar Energy and the aforementioned utilities support this bill because it provides certainty of notification of annexed property and when franchise fees in an annexed area are to be collected. Thank you for the opportunity to present this testimony. I will be glad to answer questions at the appropriate time.

HOUSE UTILITIES

DATE:

2/20/06

ATTACHMENT

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