

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Vice-Chair Forrest Knox at 9:15 a.m. on January 25, 2010, in Room 785 of the Docking State Office Building.

All members were present except:

Carl Holmes-excused
Rob Olson-excused

Committee staff present:

Matt Sterling, Office of the Revisor of Statutes
Mary Torrence, Office of the Revisor of Statutes
Cindy Lash, Kansas Legislative Research Department
Iraida Orr, Kansas Legislative Research Department
Renaë Hansen, Committee Assistant

Conferees appearing before the Committee:

Nancy Jackson, Climate and Energy Project
Kimberly Svaty, The Industry (KEC, KEPC, KMU, KCP&L, Midwest Energy, and Westar)

Others attending:

Twenty-one including the attached list.

Representative Margaret Long moved to introduce a resolution that we opposed the nuisance of loud commercials. Seconded by Representative Tom Moxley. Motion Carried.

Questions were asked and comments made by Representatives: Margaret Long, and Vern Swanson.

Representative Tom Moxley moved to introduce a bill that would encompass the good neighbor rule for un-zoned counties concerning wind energy. Seconded by Representative Margaret Long. Motion Carried.

Comments were made by Representative Tom Moxley.

Hearing on:

HR 6005 - Establishing targets for energy development, consumption and costs.

Proponents:

Representative Tom Sloan, (Attachment 1), spoke to the committee about **HR 6005** to establish measurable targets for the state concerning energy development, consumption and costs. He believes that the legislature is the appropriate body to encourage the industry and Kansans to set targets for the next decade.

Questions were asked and comments made by Representatives: Vern Swanson, Cindy Neighbor, Annie Kuether, Milack Talia, Don Myers, Gail Finney, Tom Moxley, and Rocky Fund.

Nancy Jackson, Climate and Energy Project (Attachment 2), spoke to the committee as a proponent to **HR 6005**. This is a recognition that we are moving into a new era of energy production and the nation is moving towards more energy independence and we need to set goals for transmission and maximize goals for energy production from alternative energy sources. She noted that the cornerstone for great energy policy for the 21st century is going to be energy efficiency.

Questions were asked and comments made by Representative Vince Wetta.

Opponents:

Kimberly Svaty, The Industry (Attachment 3), spoke to the committee as an opponent to **HR6005**. She noted

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that all of the energy companies represented do have comprehensive energy plans with ongoing changes and visions included in their plans.

Questions were asked and comments made by Representatives: Tom Sloan, Vince Wetta, and Forrest Knox.

Written Opponents:

KCC, (Attachment 4), offered testimony in opposition to **HR 6005**.

CURB, (Attachment 5), presented written testimony in opposition to **HR 6005**.

Questions were asked and comments made by Representative Forrest Knox.

Some questions were answered by Mark Schreiber, Westar Energy.

The hearing on **HR 6005** was closed.

The next meeting is scheduled for January 26, 2010.

The meeting was adjourned at 10:29 a.m.

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TOPEKA
HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: VISION 2020

MEMBER: ENERGY AND UTILITIES
GOVERNMENT EFFICIENCY
AND FISCAL OVERSIGHT
JOINT COMMITTEE ON ENERGY
AND ENVIRONMENT

Testimony: House Resolution 6005

January 25, 2010

Mr. Chairman, Members of the Committee: For several years, this Committee was told that the State needed a renewable portfolio standard (RPS), we now have one; for several years we were told that the State needed a net metering statute, we now have one. Neither of those laws, nor any of the others that we have enacted to provide incentives for energy production constitutes an Energy Plan.

The State of Kansas does not have an Energy Plan – a roadmap detailing what the State's energy production and consumption should look like in 2010. Governors created the Kansas Energy Council (KEC) and Kansas Energy and Environment Policy Group (KEEP) with the express expectation that a state energy plan would be developed. For a variety of reasons, no comprehensive, visionary, long-range plan was offered. HR 6005 is such a proposal.

A Resolution does not have the force of law – it does not mandate that anyone do anything; it simply is an expression of legislative intent, priorities, and desires. The intent of HR 6005 is to stimulate a discussion of what Kansas' energy production and consumption patterns should look like in 10 years and suggest ways to get there. For example:

All Title IV landfills shall capture at least 90 percent of otherwise escaping methane gas and shall convert new and existing municipal waste into synthetic gas. The technologies exist today to accomplish both objectives. The landfill North of Topeka is now capturing methane gas and using it as fuel for electric generation. Ft. Riley had a demonstration project that converted "mined" and new waste streams into synthetic gas. HR 6005 says that this reduction of municipal wastes and venting of methane gas should be a priority.

The Kansas Bio-Science Authority is widely viewed as a success in stimulating increased investment and job creation in the biosciences. HR 6005 calls for energy research in Kansas by private and public sector persons to generate \$150 million in grants, sponsored research, sales of products and technologies each year. It calls for making research, development of products, creation of jobs, and creation of quality of life opportunities a priority in Kansas.

HR 6005 also calls for policy-makers and entrepreneurs to hold energy cost increases to 2 percent per year or less – with many Kansans experiencing reduced or stable energy costs as a result of the Kansas Energy Policies.

There are many other sections related to energy production, conservation, movement, and public-private sector coordination included in HR 6005. Each of you may question the comprehensiveness of the Plan and whether the targets (e.g., \$150 million per year in new "energy dollars" addressed above) are the correct ones.

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The key issues for me are: 1) The people of Kansas need and deserve a comprehensive energy plan that focuses policy-makers' and investors' attention and efforts on clearly defined goals; 2) that progress toward achieving the identified goals is measurable; 3) that the plan is flexible allowing for creation of new targets if those identified are achieved "early" and to permit the addition of new goals and targets as technology changes; and 4) give the people of Kansas something they can "see" in the same manner that President Kennedy mobilized a nation of innovators and the public when he promised that a man would land on the moon within the decade --- inspire our citizenry.

It will be easy to "kill" this resolution. One can say the targets are wrong, metrics are wrong, timing is wrong, or any number of other things are wrong with it. We follow maps or Google maps when we travel by car to distant vacation sites – we have a defined destination, a primary route with alternatives, and an expected timeframe by which we will arrive.

HR 6005 challenges you, your constituents, and the other stakeholders in this room to define our destination as a state, identify the primary and possible alternative means by which we will reach our destinations, and establishes benefits for the people of Kansas – all within the next 10 years.

I encourage your discussion of HR 6005, enhancement of its components, and passage of a comprehensive energy plan that can inspire and guide the people of Kansas for the next 10 years. This Energy Plan will be a living document – changing objectives, metrics, and benefits --- but it will be a blueprint to start us on that road to success.

Thank you for your attention and consideration. I look forward to your questions, but even more to your suggestions to strengthen HR 6005's goal.



Mr. Chairman, members of the Committee, thank you for the opportunity to address you regarding HR 6005.

CEP supports a resolution that leads the way toward shrewd energy policy for the twenty-first century. While some refer to last year's major energy package – which included a settlement on Holcomb, a statewide Renewable Energy Standard, and net metering for investor-owned utilities – as “comprehensive,” it clearly did not address a number of key areas including energy efficiency, transportation fuels, or natural gas, to name a few.

To succeed, businesses plan for the future, setting goals for production, earnings, and return on investment. That's how they stay competitive and thrive in changing circumstances. For the same reasons, most states have completed or are crafting state energy plans. Missouri, for example, will spend \$2 million of its ARRA funds developing an ambitious plan to maximize local economies, minimize fuel imports, and hedge against global market volatility.

Kansas, despite good work by the Kansas Energy Council and the Kansas Energy & Environmental Policy group, has not crafted a plan. We would be wise to do so. Setting forth such a plan by means of a resolution – non-binding, absent mandates, but nevertheless setting a high bar for achievement – has much to commend it.

As regards specific targets in the resolution at hand, CEP supports a goal of 20% of all electricity used by Kansas customers coming from renewable sources, whether by 2020 or 2030. Kansas, as the second windiest state in the nation, is more than capable of producing wind energy that actually exceeds our state load, so 20% is a modest and achievable goal. In addition, we have an enviable biomass resource and in the Abengoa plant and Edenspace plans, tantalizing examples of the biorefineries of the future.

Preliminary biomass numbers for Kansas appear to indicate that we could produce over 2.5 billion gallons of cellulosic ethanol or over 45 million MWh of electricity from crop waste and dedicated energy crops.

Renewable energy production builds local economies, creates new jobs, hedges against global price spikes for fossil fuels, and increases our energy independence and national security – renewable fuels make sense for too many reasons not to maximize their production and consumption.

Both House and Senate unanimously passed resolutions in 2007 to support 25x25 – the national goal of getting 25% of the nation's fuel (for electricity and transportation) from sustainable harvest of our farms, ranches, and forests. That goal seems to fit this resolution's contours nicely.

Landfills ought certainly to capture methane for power production. Many across the nation do already and certainly as electricity prices rise nationwide, this trend will continue and accelerate. Should greenhouse gas emissions be limited at some point by some mechanism, as most credible observers

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expect, then municipalities may be able to earn income for these reductions, making capture even more economic. Whether 90% of methane is the right number is beyond CEP's expertise, but certainly a goal that over half of large municipal landfills will convert waste to power by 2020 is achievable.

Again, while 10% of motor fuels from cellulosic feedstock may appear arbitrary, certainly a setting a goal for Kansas to become a national leader in cellulosic ethanol production is realistic and appropriate. While that goal (in millions of gallons or percentage of national cellulosic ethanol production) is at present beyond CEP's expertise, we will swiftly seek guidance on it from regional and national experts and provide the committee with a recommendation.

Setting a goal for firmed power seems premature and potentially costly. Most wind integration studies are showing conclusively that at lower penetrations (below 30%), direct/paired firming of wind is unnecessary. However, a goal for Kansas to develop and commercialize storage techniques (Exide Battery in Salina provides interesting possibilities, and we have excellent geography for compressed air energy storage) would spur innovation and cement our position as a leader in wind energy. There is widespread agreement nationally that storage will become more important in any energy future, certainly in one that emphasizes renewables and takes maximum advantage of fuel from our backyards that is local, inexhaustible, and free.

Energy conservation and efficiency is perhaps the most important part of this resolution. States across the country, including Texas to our south and Iowa to our north, are achieving 1% reductions from projected demand annually. These reductions are highly cost-effective and have garnered widespread and durable support from consumers. CEP strongly favors a straightforward goal of at least 1% reduction from projected demand as determined by EIA and the KCC, accompanied by willingness to provide utilities with performance-based incentives to achieve those reductions.

The Kansas Electric Transmission Authority has done excellent work in the state and the region. Clearly, more transmission is needed. Goals in this resolution might be recast to express outcomes not in miles but in results. CEP supports transmission goals that eliminate congestion, move least expensive power equitably across the state, and move Kansas-produced wind energy to eager markets swiftly and cost-effectively. Several companies are currently developing DC line proposals: from Nebraska to Chicago and from Oklahoma to Tennessee, for example. Kansas might consider goals in that arena.

Much of the research and retrofit section of the resolution is outside CEP's scope of expertise. The goal of reducing carbon dioxide emissions at existing coal plants, while certainly laudable from our climate-action perspective, represents massive investments in currently unavailable technology that would almost certainly create a robust and durable consumer backlash. Instead, we recommend ambitious efficiency and conservation to dampen demand growth coupled with strong renewable growth – from wind energy to combined heat and power, to biomass co-firing – that serves to reduce our state's carbon intensity.

In sum, CEP supports the spirit of this resolution. Kansas would benefit from a plan that increases our independence, builds our economy, and protects consumers from global price spikes over the long haul.

Industry Testimony H.R. 6005

January 25, 2010

Respectfully Submitted by :

Kansas Electric Cooperatives, Kansas Electric Power Cooperative, Kansas Municipal Utilities,
Kansas City Power & Light, Midwest Energy, and Westar Energy

Good morning Mr. Chairman and members of the Committee,

On behalf the energy industry operating in Kansas, I respectfully submit testimony in opposition to H. R. 6005. While we recognize the measure before the committee is a resolution intended to express the desires and goals of the legislative body, we believe that the resolution in many instances contradicts the specific requirements put forth in the comprehensive energy bill that passed the Legislature and was signed into law by Governor Parkinson last session. To that end, the provisions of the energy bill which was vigorously debated for two full legislative sessions, are being implemented as we speak. It is prudent to allow the utilities and regulatory entities time to develop, implement, measure and evaluate the effectiveness of the recently passed energy bill before establishing new targets and guidelines.

The provisions set forth in this resolution if implemented could grow the purview certain of state agencies and increase costs to ratepayers.

- **Agencies of Jurisdiction** - HR 6005 calls for six government entities and agencies to work together to ensure that the goals set forth in the resolution are achieved. Four of these entities including the Kansas Board of Regents, the Kansas Bio-Science Authority, the Kansas Development Finance Authority have no institutional background or experience working in the energy or regulated utility realm. Furthermore, in a time when all parts of state government are dramatically cutting budgets and reducing personnel, is it prudent to place additional responsibilities on state agencies?
- **Renewable Energy** - HB 2369 which was signed into law last session included a renewable portfolio standard (RPS) requiring a ten percent integration of renewable resources by 2011 and twenty percent by 2020. The approved RPS was based on the nameplate capacity of operating units. The RPS targets included in HR 6005 are based on actual energy usage which would nearly double the existing RPS requirements. The nameplate versus output basis was debated at length with nameplate representing the final will of the Body.
- **Renewable Energy** - The focus on "firming" wind energy for reliability and dispatchability as written in the resolution could be difficult to attain and could be costly to customers. Utilities can better manage the intermittency of renewable energy by using independent components of

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their energy portfolios - generation assets, demand response and market elements. In addition, the potential for wind energy in Kansas is largely for an export market. Utilities purchasing the energy will make decisions related to firming and storage that are in the best interest of their customers. Kansas utilities should not have to address energy storage for energy not being used by their customers.

- **Energy Efficiency & Conservation** - Utilities are constantly forecasting and modeling load growth in order to ensure customer needs are met. A specific target cut is not practical for every utility. There are 41 counties in Kansas that see declining population and negative load growth already juxtaposed to other areas with higher growth in population and energy use. Utilities operating in Kansas have implemented various energy efficiency programs to (1) educate customers about energy consumption; (2) to help stave off the need for additional new baseload generation; and (3) to reduce peak demand.
- **Transmission** - The Kansas Electric Transmission Authority continues to aggressively advocate before the Kansas Corporation Commission and Southwest Power Pool for new and upgraded transmission infrastructure for Kansas customers. In addition, all new or upgraded transmission must be approved by SPP. Kansas utilities cannot independently cause for the approval and construction of new transmission assets.
- **Research & Retro-fit** - Smart Grid technology is in the "early adopter" phase and Kansas utilities are leading the way in testing and rolling out smart grid assets on their system. It is imperative that utilities can select the most effective and affordable technology that best suits their unique service territories. Smart Grid is a fundamental overhaul of the existing system. Utilities will implement the technology in timeframe that enhances the system while not unduly burdening customer rates.
- **Research & Retro-fit** - The emission or release reduction target is more appropriately addressed at the federal level. This body has spent two full legislative sessions ensuring that our emissions standards are tied to the federal level to ensure that Kansas would not be at a competitive disadvantage.
- **Impacts on Kansans** - Kansas utilities dedicate countless numbers of hours and personnel to ensuring that utility decisionmaking minimizes customer rate increases while maximizing system efficiency. Costs are rising and we are working diligently to minimize the increase. There are costs however that are beyond our control. Simply complying with the provisions of the comprehensive energy bill will increase costs to our customers. Adding the costs associated with complying with HR 6005 and customers rates will likely increase more than twenty percent.

H.R. 6005 is a checkerboard of concepts that in many instances contradict existing law, will be costly for utilities to implement, and adds additional state agency oversight to ensure the targets are met. Allow for the comprehensive energy bill to take effect before establishing different targets.



Mark Parkinson, Governor
Thomas E. Wright, Chairman
Michael C. Moffet, Commissioner
Joseph F. Harkins, Commissioner

**Statement of the
State Corporation Commission of the State of Kansas
On House Resolution No. 6005
January 25, 2010**

The Corporation Commission appreciates and supports the apparent intent behind this resolution. It is vitally important to have goals for energy production and usage in Kansas. However, the Commission must oppose this resolution for two basic reasons. First, it is not clear what several of the provisions mean and how they are to be implemented and, second, it is unlikely that the conflicting goals of the resolution could be successfully implemented. Although the Commission appreciates the fact that a resolution simply expresses the desires or goals of the legislative body, a state agency cannot respond to that resolution if the objectives are not clear and practicable.

The resolution suggests that by the end of 2020, 20% of all electricity produced and consumed at peak should be generated from renewable resources. Unlike the Renewable Energy Standard established by HB 2369 last year, this does not specify whether the determination of the peak periods and the 20% applies to each utility individually or in the aggregate to all utilities. Further, it is unclear how the KCC can implement this goal without legal authority to require utilities to comply with a higher standard than established by HB 2369.

For wind resources the resolution states that at least 60% of the energy “shall be ‘firmed’ for reliability and to permit it to be dispatched.” In combination with the necessary energy storage, the wind energy is to have at least an 80% capacity factor for five hours. It is unclear what is meant by “firmed” or precisely how capacity factor is to be determined in this context. This seems to refer to storage of wind energy that can be dispatched but it is not evident how the

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60% in the first requirement interplays with the five hour 80% capacity factor in the second requirement.

The resolution states that assuming the Kansas electricity demand growth rate returns to 1% annually, the approximately 15% growth between the end of 2009 and beginning of 2021 should be reduced to 7.5% with electric utility conservation and efficiency programs “without consumers experiencing a quality of life degradation.” Aside from the difficulties of forecasting demand growth to determine if the assumptions are literally met, the phrase “quality of life degradation” has a wide range of possible interpretations making this goal difficult to achieve.

The resolution also contains provisions regarding Smart Grid and CO₂ emissions of existing coal-fired generation units. It would mandate that 70% of transmission and distribution lines and 25% of electric meters shall be “smart grid compliant” by the end of 2020. Further, existing coal-fired plants would have to reduce carbon dioxide emissions per BTU to be equal to or less than natural gas generation constructed in 2009. The Commission would have difficulty, if challenged, in justifying what appear to be arbitrary percentages since the costs and benefits of compliance are currently unknown. Westar and KCPL will be conducting pilot projects to explore Smart Grid issues and, without evidence on costs and benefits, it would at best be premature to set arbitrary goals for Smart Grids. The same lack of evidence would apply to CO₂ reductions at existing coal plants.

Indeed, there is no certainty about the ultimate costs and benefits associated with all the goals discussed above. Consequently, the final goal of limiting energy cost increases to 20% from July 1, 2010, through the end of 2020 may be in direct and irreconcilable conflict with other goals. The KCC must often balance conflicting interests, but it tries to establish goals based on costs and benefits and to avoid setting conflicting and arbitrary goals.

Citizens' Utility Ratepayer Board

Board Members:

A.W.Dirks, Chair
Carol I. Faucher, Member
Nancy Scott Jackson, Member
Stephanie Kelton, Member



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HOUSE UTILITIES COMMITTEE H.R. 6005

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
January 25, 2010

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.R. 6005. The Citizens' Utility Ratepayer Board is opposed to this resolution for the following reasons:

CURB appreciates the intent of HR 6005, which appears to set forth a set of targets related to energy production and consumption in the state of Kansas. Discussions about energy policy in Kansas are always educational and beneficial. Of particular interest to CURB is how those policies affect consumers.

However, the targets set forth in this resolution are not the result of public policy discussions and are not based on a consensus of relevant stakeholders. Further, the targets are extremely aggressive as compared to current Kansas policy, appear to be arbitrarily drawn and will be very expensive to achieve, increasing the utility rates of Kansas consumers and businesses.

For example, by 2020, the resolution requires:

- That at peak generation and consumption periods 20% of all electricity produced by Kansas generators and 20% of all electricity used by Kansas residential, commercial and industrial customers shall have been generated from renewable resources. The current Kansas requirement, passed only last year, requires 20% of "peak" load by 2021 be from renewable resources. Meeting the resolution target, which is based in energy, rather than the current law, which is based on peak, will require far higher expenditures than currently required for renewable resources.
- That 60% of wind generated energy shall be firmed for reliability and to permit dispatch. Further, the energy storage shall have at least an 80% capacity factor. Further discussion is necessary to determine whether this technically and/or economically possible to achieve.

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- That growth in electric consumption be cut in half (7.5% of and assumed 15% increase in demand) through measurable programs, without consumers experiencing a quality of life degradation. While perhaps technically possible, further discussion would be needed to develop an economic profile for this target. Further, the costs to achieve this reduction will increase rates to some customers. Higher rates will lead to higher bills for some, making it impossible to meet the second requirement that quality of life not be degraded.
- That 1000 miles of transmission be approved and constructed. There is no guidance regarding whether Kansas needs 1000 miles of transmission built or where the 1000 miles of transmission would be built. This is an arbitrary target with no technical or economic support.
- That existing coal fired generation units shall reduce the rate of their carbon dioxide releases per BTU to equal or less than natural gas generation plants constructed in 2009. CURB knows of no technology at this time that could be used to accomplish meet this target.
- Finally, that as a result of Kansas' energy policies, consumers should not see increases in total energy costs exceeding 20% during the July 1, 2010 through December 31, 2020 period. CURB does not believe that the above targets set forth in this resolution can be met while keeping energy cost impacts below 20%.

While CURB welcomes the opportunity to discuss Kansas energy policy, including how different energy policy initiatives will affect Kansas consumers, CURB opposed this resolution and the arbitrary targets set forth therein.