

MINUTES

JOINT COMMITTEE ON ENERGY AND ENVIRONMENTAL POLICY

Tuesday, November 22, 2011
Room 152-S—Statehouse

Members Present

Representative Carl Holmes, Chairperson
Senator Carolyn McGinn, Vice-chairperson
Senator Marci Francisco
Senator Ralph Ostmeyer
Senator Mike Petersen
Representative Mitch Holmes
Representative Forrest Knox
Representative Annie Kuether
Representative Tom Sloan
Representative Vince Wetta

Member Absent

Senator Mark Taddiken

Staff Present

Cindy Lash, Kansas Legislative Research Department
Heather O'Hara, Kansas Legislative Research Department
Matt Sterling, Office of the Revisor of Statutes
Tamera Lawrence, Office of the Revisor of Statutes
Renaë Hansen, Committee Assistant

Others Attending

See attached list.

Chairperson Holmes called the Committee meeting to order and welcomed Committee members and guests to the meeting.

Representative Kuether moved to approve the minutes from the October 17-18, 2011, meeting, seconded by Representative Sloan. The motion carried.

Cindy Lash, Kansas Legislative Research Department (KLRD), explained the follow-up information requested by the Committee from the October 17-18 meeting:

- Weatherization - Kansas Housing Resource Corporation (Attachment 1);

- Health Benefits of Regulations, Flexibility of Compliance Dates – U.S. Environmental Protection Agency (EPA) ([Attachments 2 and 3](#)); and
- Equus Beds – REAP-Wichita State University and Kansas Corporation Commission (KCC) ([Attachment 4](#)).

Status of Logjam in John Redmond Reservoir

Earl Lewis, Kansas Water Office, spoke about the logjam in the John Redmond Reservoir ([Attachment 5](#)). He presented pictures that showed the extent of the logjam. Mr. Lewis noted that, as of now, it appears someone has removed the logs. Additionally, he noted some of the logs may have taken on water and moved to the bottom of the river.

Vegetation Growth in Cedar Bluff Reservoir

Robin Jennison, Secretary, Kansas Department of Wildlife, Parks and Tourism ([Attachment 6](#)), spoke about the western Kansas reservoirs and, in particular, the vegetative growth in the Cedar Bluff Reservoir. He noted the lake is presently down about 17 feet. A Committee member commented that it might be important to get the cabin owners on board to keep the shoreline cleared of the plant and tree growth. Secretary Jennison also spoke about the blue-green algae problem and the solutions they are using to alleviate the algae.

Renewable Portfolio Standards

Kansas Compliance Levels and Effects on Ratepayers

Jaime Stamatson, KCC, reviewed the Kansas renewable portfolio standard (RPS) ([Attachment 7](#)). He discussed in detail the energy sources each of the utilities subject to the RPS used to achieve compliance with the RPS for 2011 ([Attachment 8](#)).

Bob Glass, KCC, spoke on the effects to Kansas ratepayers of the ten percent RPS ([Attachment 9](#)). He provided additional information to clarify the impact to the ratepayers ([Attachment 10](#)). Mr. Glass commented that the renewable energy standard (RES) is designed to increase the domestic production of renewable energy in Kansas. His presentation included a graph of the levelized cost of energy generation for the year 2010. If the production tax credit were taken away, the cost for wind would increase. He noted that, currently, wind energy is driven by tax policy. Mr. Glass stated the least subsidized energy source is natural gas.

Summary of Selected Research - Cost and Effects on Ratepayers of an RPS

Cindy Lash provided a map of the United States that shows various RPS policies across the nation ([Attachment 11](#)). She stated it varies widely in terms of the percentage required and the years when compliance must be reached. Each state has various allowed energy sources and the policies provide various breaks for use. Additionally, Ms. Lash provided a chart explaining four comprehensive reports that have been produced which explain the cost effects of the RES on ratepayers ([Attachment 12](#)).

Commercialization of Environmentally-Friendly Fracturing Fluids

Dr. Jenn-Tai Liang, University of Kansas (KU), spoke about environmentally-friendly hydraulic fracturing fluids ([Attachment 13](#)). His presentation explained the major components in conventional fracturing fluids - quartz sand, guar gum, borate salts, and ammonium persulfate. The ammonium persulfate is used as an oxidizer to break the gel down to regain well productivity. Dr. Liang spoke of the enzyme research being patented from the KU campus to be used for commercial purposes as the oxidizer. He noted that enzymes are more environmentally-friendly than the traditional oxidizers. Dr. Liang also discussed issues that need to be resolved before the enzyme oxidizers can be used actively by the commercial industry. He explained how KU has used the controlled release technology targeted for cancer treatment and DNA delivery, and applied it to the delivery of the fracturing fluid for hydraulic fracturing.

Tallgrass Heartland

Jon Hummell, Office of the Governor, spoke about Tallgrass Heartland of the Flint Hills and how wind energy expansion would affect the endangered prairie. He provided copies of the press release from the Governor's Office about the road map for wind energy ([Attachment 14](#)). Additionally, Mr. Hummell included a map of the Tallgrass Heartland project in his testimony ([Attachment 15](#)).

Kimberly Svaty, Wind Coalition ([Attachment 16](#)), spoke about the Kansas Supreme Court action on the Wabaunsee County ban of commercial wind development.

Energy Tax Incentives

Summary of Kansas Energy Tax Incentives

Cindy Lash spoke about the Kansas energy tax incentives ([Attachments 17 and 18](#)). Ms. Lash provided a summary of the tax incentives ([Attachment 17](#)). The Kansas Department of Revenue annually issues a comprehensive document that includes all state laws that offer tax incentives to energy producers and consumers ([Attachment 18](#)). Kathleen Smith and Edie Martin, Kansas Department of Revenue, were available to answer questions. The documents contained information on state tax exemptions but did not show the fiscal effect on local governments.

Kansas Commercial Wind Development Incentives, Comparison with Other States

Ms. Lash provided information about how Kansas incentives compare to the incentives of other states ([Attachment 19](#)). She noted the information was obtained through <http://www.dsireusa.org> and includes those states that are located close to Kansas: Colorado, Iowa, Minnesota, Missouri, Nebraska, Oklahoma, and Texas. Ms. Lash noted Missouri's range for property tax incentives is based on how many jobs companies create with the addition of the wind development.

Update on *FracFocus* and Related Kansas Legislation

Doug Louis, KCC, updated the Committee on the *FracFocus* webpage (www.fracfocus.org) and related Kansas legislation ([Attachment 20](#)). He noted there are

currently 7,437 wells that have been reported on the webpage. The webpage has limited capabilities in that its queries are very limited. He noted, according to current statutes, the KCC does not have authority to make rules and regulations concerning hydraulic fracturing.

Testimony on Draft Language for Proposed Bills

Time Limit for KCC to Rule on Certification of a Utility

Matt Sterling, Office of the Revisor of Statutes, presented the proposed bill ([Attachment 21](#)) and an explanation ([Attachment 22](#)) of the proposed bill **12rs1880, which would impose a 180-day time limit for the Commission to act on applications for certificates of public convenience.**

The KCC presented written-only testimony ([Attachment 23](#)) in support of the proposed bill **12rs1880.**

Chairperson Holmes opened the floor for discussion on the proposed bill **12rs1880.**

*Representative Sloan moved to recommend **12rs1880** to the Legislature for consideration, with introduction in the House of Representatives, seconded by Senator Petersen. Motion carried.*

Water Benefit Districts

A discussion ensued regarding water benefit districts and potential proposed legislation pertaining to the districts.

Follow-Up Information

Susan Metzger, Kansas Water Office, spoke regarding the dredging of Kansas reservoirs ([Attachment 24](#)). Ms. Metzger stated, because lake levels are low right now, the agency is trying to take advantage of the low levels and remove as much sedimentation as they can.

David Harper, Department of Revenue, spoke about the assessment of taxes on wind turbines and noted the tax issue would not relate to the state tax system, but to local tax entities. He answered questions regarding the state's assessment of taxes depending on whether a person was generating power or not.

Continuation of Testimony on Draft Language for Proposed Bills

Pore Space Ownership

Matt Sterling, Office of the Revisor of Statutes, presented the proposed bill regarding pore space ownership ([Attachment 25](#)), and provided an explanation ([Attachment 26](#)) of the bill, 12rs1884. He noted this proposed language was modeled on Wyoming's current law.

Eric Nordling, Southwest Kansas Royalty Owners Association, offered written testimony in support of **12rs1884** (Attachment 27).

Representative Sloan moved to recommend 12rs1884 for legislative consideration with introduction in the Senate, seconded by Representative Wetta. Committee members asked further questions regarding the proposed legislation.

The motion to move the proposed language in 12rs1884 to the 2012 Kansas Legislative session was passed.

Enhanced Tax Credit for Plugging Abandoned Oil and Gas Wells

Matt Sterling presented the proposed bill regarding enhancement of the income tax credit for plugging abandoned wells (Attachment 28) and provided an explanation of the bill **12rs1882** (Attachment 29). The Committee members discussed the proposed language of **12rs1882**.

Doug Louis helped to clarify some of the discussion regarding current rules and regulations that are in effect.

Representative Sloan moved to return to the original language on subsection (c) of 12rs1882, seconded by Senator Francisco. The motion carried.

Senator Francisco moved to change the language on part (b) of 12rs1882 to 2011 from 2000, seconded by Representative Sloan. The motion carried.

Senator Francisco moved to change the 100 percent amount in part (b) of 12rs1882 to 80 percent, seconded by Representative Sloan. Committee members discussed the motion made by Senator Francisco. *The motion failed.*

Further discussion regarding the proposed bill **12rs1882** ensued. Mr. Sterling helped to clarify the language of the proposed bill.

Representative Knox moved to recommend 12rs1882 for legislative consideration, as amended, with introduction in the House of Representatives, seconded by Representative Sloan. The motion carried.

Operator Payments to the State to Plug Oil and Gas Wells

Matt Sterling presented the proposed language regarding operator payments to the state to plug oil and gas wells (Attachment 30) and gave the committee an explanation (Attachment 31) of the proposed bill, **12rs1879**. The Committee received testimony from interested parties.

Doug Louis presented testimony with concerns for the language in **12rs1879** (Attachment 32).

John Federico, on behalf of Hartman Oil Company, offered written testimony in regard to **12rs1879** (Attachment 33).

Committee members discussed various aspects of the proposed bill. The Committee took no action on **12rs1879**.

Municipal Utility Rates

Colin Hansen, Kansas Municipal Utilities, spoke regarding municipal utility rates in Kansas, which involves 119 different entities ([Attachment 34](#)). The municipal entities are part of either the Kansas Power Pool or Kansas Municipal Energy Agency. He stated the municipal systems face tremendous challenges, financial and otherwise.

Mr. Hansen discussed the federal rule for Reciprocating Internal Combustion Engines (RICE rule) and discussed his conversations with the EPA regarding municipalities and the RICE rule. He noted if the rule did not change for municipalities, there would be several plants in small municipalities that will close because they cannot afford the upgrades necessary to meet the RICE rule standards.

Kansas Water Authority

Tracy Streeter, Kansas Water Office, spoke about the Kansas Water Authority recommendations for the Legislature to consider regarding water issues in the state ([Attachment 35](#)). The recommendations are as follows:

- Fund nutrient reduction activities in the suggested amount of approximately \$6.0 million;
- Ask the Kansas Water Office to complete a detailed implementation plan for the Neosho Basin Reservoir Roadmap;
- Amend the statute requiring federal funding for streambank stabilization projects and fully adopt the FY 2012 budget proviso permitting 100 percent cost-share for projects with substantial state interest;
- Provide for a clear and comprehensive state authority for coordination of all aspects of a systematic dredging program for the purpose of water supply storage capacity restoration; and
- Provide authority for the state to cooperate with local units of government or private entities for the development of small lakes for any purpose, whether single or multipurpose.

Consideration of Draft Report and Committee Recommendations

Included in the meeting materials for the Committee's consideration was information regarding the effect of not transferring \$400,000 from the State General Fund to the Abandoned Oil and Gas Well Plugging program ([Attachment 36](#)), together with the impacts on the inventory of KCC abandoned wells requiring action ([Attachment 37](#)).

Cindy Lash spoke about the draft Report to the Legislature from the Joint Committee on Energy and Environmental Policy. She asked the Committee to clarify the recommendations they are requesting to place in the Report. The recommendations are as follows:

- Kansas Water Authority recommendations should be considered by House and Senate budget committees, as well as by the House Committee on Appropriations and the Senate Committee on Ways and Means;
- The Legislature should consider funding to address sedimentation in John Redmond Reservoir, which would include stream bank stabilization activities on the Neosho River;
- The Legislature should consider current abandoned well policy and the direction the state should undertake for the next 20 years. The Committee encourages the KCC to explore this topic and report to the Legislature this session;
- The Legislature should ensure that budget committees are aware that more wells would have been plugged if the State General Fund transfer would have been made over the last several years as the statute requires;
- The Committee appreciates the work the KCC has done on Efficiency Kansas and hopes another avenue to continue to meet those needs can be pursued to keep the revolving loan program intact;
- The KCC should report to the utilities committees this session on the nature of the costs of carrying forward with the RPS and whether the utilities can meet the 2016 and 2020 requirements of the state's RES.

The meeting was adjourned by Chairperson Holmes.

Prepared by Renae Hansen
Edited by Heather O'Hara and Cindy Lash

Approved by the Committee on:

January 20, 2012
(Date)