THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Thomas E. Wright, Chairman
Michael C. Moffet
Joseph F. Harkins

In the Matter of a General Investigation Regarding Benefit-Cost Analysis and Program Evaluation for Energy Efficiency Programs.) Docket No. 08-GIMX-442-GIV

COMMENTS OF THE CITIZENS' UTILITY RATEPAYER BOARD

COMES NOW, the Citizens' Utility Ratepayer Board ("CURB"), pursuant to the Kansas Corporation Commission's ("Commission") *Order Initiating Investigation and Assessing Costs,* issued November 6, 2007, in the above captioned docket, and files the following comments:

Introduction:

1. CURB incorporates by reference the following sets of Comments filed by CURB in prior dockets related to the issues addressed in this current docket: *Comments of CURB* filed February 6, 2004 and June 3, 2005 in KCC Docket No. 04-GIMX-531-GIV, and *Comments of CURB* filed on November 30, 2006 in KCC Docket No. 07-GIMX-247-GIV.

Specific Comments:

2. In response to specific questions in the current docket CURB submits the following answers:

A. Benefit-Cost Standards

1. DSM Programs

How should the Commission evaluate DSM programs for costs and benefits? What tests should be employed and what factors considered? The Commission seeks responses addressing the issues noted above in paragraph 12. Should Staff's proposed approach be adopted by the Commission? If not, what benefit-cost test approach should the Commission employ? The Commission desires respondents to set forth clear proposals embodying a framework for benefit-cost analysis and approval of these programs.

Response: CURB believes that the Ratepayer Impact Measure test ("RIM") test is the most appropriate cost-benefit test to evaluate the cost-effectiveness of DSM programs. That said, CURB acknowledges that there are beneficial programs that may not in every instance pass the RIM test: for example, education programs. Because the RIM test is restrictive, the Board believes that it is also appropriate to evaluate programs using the Total Resource Cost test ("TRC") as a secondary screen. Evaluating programs based on these two tests appears consistent with Staff's approach and is consistent with how programs have been reviewed historically at the Commission.

CURB does have two concerns with the suggestion that the cost-benefit analysis include costs related to potential future carbon dioxide regulation and other "external" societal costs associated with climate change and pollutants, including SOx, NOx, particulate material and mercury. First, the form that carbon dioxide regulation will take, as well as the timing of the implementation of the regulation and the level of cost associated with the regulation, is purely speculative at this point. While most would agree that carbon dioxide regulation in some form will be imposed at some point in the future, the cost-benefit analysis contemplated here would require a level of detailed assumptions regarding the timing and cost impact of these regulations that the Commission currently is unable to provide. Likewise, the level of other "external" cost impacts from pollutants is also purely speculative. Again, while most would agree that the emission of a pollutant has some health impact and therefore positive costs, the level of those costs, and equally the level of societal benefit from avoiding those costs, has no solid evidentiary foundation at the Commission. The Commission has no procedure for determining the "correct" level of costs to apply to any given analysis, and no evidence regarding the level and likelihood of any of these costs.

Second, assuming for argument's sake, that the Commission does determine that its policy will be to include the cost of carbon regulation and the cost of health impacts from pollutant emissions in its cost benefit analysis, the Commission must apply this policy consistently in all of its decisions. It would be arbitrary and capricious if the Commission applied these costing principles in evaluating DSM programs but did not also apply these same costing principles when evaluating a utility's request to build a supply-side resource. The Commission must give careful thought to adopting a policy of adding these non-traditional costs to the evaluation matrix the Commission will use in evaluating resource decisions.

In paragraph 12, the Commission inquires about "implications for how various energy efficiency costs, i.e. program costs, lost revenues and incentives should be recovered in rates." CURB has addressed this in prior comments and will not fully restate those arguments here. However, CURB suggests that the method of cost recovery and the program incentives provided by the Commission will affect the "cost" of the DSM programs. In the cost-benefit analysis, the Commission must evaluate the costs of the DSM programs in a manner that is consistent with its cost recovery and incentive scheme. For example, a system benefit charge that recovers funds that are applied directly to costs immediately (similar to the Iowa approach) has a different cost profile than allowing the utility to capitalize all costs (capital and expenses), place them in the rate base and recover an incentive-enhanced return pursuant to K.S.A. 66-117(e). To some degree, cost-recovery policy decisions may drive cost-benefit outcomes. The Commission should decide how it will structure cost recovery for these programs early in this process.

2. DR Programs

What benefit-cost standards should be applied to DR programs? Again, the Commission seeks responses addressing the questions and issues set forth in paragraph 12, above, and whether Staff's suggested approach should be followed. If not, the Commission seeks clear alternative proposals that set out the tests to be employed, the factors to be considered, and the basis and rationale supporting adoption of the suggested approach by this Commission.

Response: In general, the same cost-benefit standards can be applied to DR programs as to DSM programs. However, because DR programs merely seek to change the timing of usage, and in fact, may result in additional overall usage, the cost-benefit analysis will have to take this fact into account. Moving the timing of usage may lower direct production costs, but may result in additional usage and additional carbon and other emissions.

B. Program Evaluation

1. DSM Programs

What are the additional staffing requirements associated with these programs for the utilities and the Commission? What protocols have the utilities or other parties used themselves in evaluating DSM programs? What has been the experience with standard protocols such as the IPMVP? Would there be a benefit in adopting a common, standard protocol to be used in Kansas, and if so, what should that protocol be?

Response: CURB supports the implementation of standard protocols and evaluation mechanisms as a means of maintaining a consistent approach and application of DSM programs across utilities. CURB has no experience with the protocols for evaluation DSM programs and can offer no advice on which protocol is appropriate.

2. DR Programs

Again, what are the additional staffing requirements associated with these programs for the utilities and the Commission? What program evaluation methods have been employed by utilities and other parties? If standard protocols have been used, what has been learned? Should a common evaluation protocol be adopted by the Commission?

Response: CURB supports the implementation of standard protocols and evaluation mechanisms as a means of maintaining a consistent approach and application of DSM programs across utilities. CURB has no experience with the protocols for evaluation DSM programs and can offer no advice on which protocol is appropriate.

Other General Comments:

3. Additionally, the Commission generally inquires about how real-time pricing and rate structures that encourage load shifting fit into the overall picture of energy efficiency. Specifically, the Commission requests comments on "smart metering" technology. While CURB would support further investigation into smart metering technology, some words of caution are in order. First, smart meters and the back-office technology necessary to support the meters can be extremely expensive, depending on desired functionality. For a utility, the level of investment required to build a smart metering system is attractive for ratebase purposes. However, from a customer perspective, the increase in rates to cover the cost for the meter technology may not be offset by other benefits promised. In fact, very few customers appear to want these smart meters and very few customers ever contact the CURB office to inquire about when they can have a smart meter.

Second, a very important concern for consumers is that utilizing smart meter technology also increases the possibility that a utility will utilize the technology to remotely disconnect a customer's service. The Commission currently has in place rules that a utility must follow to protect the due process rights of a customer before disconnecting the customer's service. The Commission must diligently ensure that smart meter technology, if implemented, is not used to bypass or minimize the due process protections of customers that are currently provided by the regulatory rules in Kansas.

Third, with regard to rate structures, the Commission has authority to adjust utility rate structures to accomplish desired goals. Smart meters are not necessary for this purpose. For example, the Commission has instituted decreasing block winter rates and increasing summer block rates on the Westar system. The Commission can encourage conservation by adjusting existing rate structures without imposing additional costs on consumers for smart meter technology. The relevant question for the Commission to ask is whether the incremental cost of the smart meter technology provides benefits that would justify the cost of the metering technology, compared to the benefits that are available through making low-cost changes in rate design.

Fourth, with respect to real-time pricing, CURB is opposed to voluntary real-time pricing programs. If this Commission adopts a policy that favors real-time pricing, that policy must apply to all customers equally. A kilowatt hour produced at 4:00 p.m. on a hot afternoon in August is not distinguishable by which customer caused the kilowatt hour to be produced. If you are a customer using power on a utility system at that time, under real-time pricing you should pay a rate equal to every other customer using power on that system at that time. This rate should apply equally to industrial, commercial and residential customers. However, real-time pricing is often viewed as a program for residential customers and only for those who volunteer. This is discriminatory because it wrongly presumes that the cost of producing a kilowatt hour for a residential customer is different than the cost to produce a kilowatt hour for an industrial customer at any given moment in time. This is simply incorrect. Further, the effectiveness of voluntary programs are subject to "self- selection" bias. Customers who can save money under real-time pricing will volunteer, and those who can't save money will not volunteer. This does not lead to more efficient use of power on the system, but simply redistributes revenue. The Commission would then be asked to create a regulatory solution for the redistributed revenues. If the Commission wishes to drive usage towards efficiency with real-time pricing, real-time pricing must apply equally to each customer on the system.

Fifth, with respect to rate impacts on consumers that may result from adjusting the current rate structure or from moving to real-time pricing, the Commission must also be an active participant in the creation of mechanisms or rate structures that protect the most vulnerable of our citizens. In the next five to seven years, most electric utilities will invest substantial dollars in their systems. KCPL is in the middle of a five-year, $2.5 billion program of capital expansion. Westar says it will have capital expenditures of $2.3 billion in the period 2007 - 2009. These expenditures do not include increases in O&M, fuel or other costs, such as carbon regulation costs. Electric utility rates will increase substantially over the next few years, and this fact will cause hardship for the poorest among us. If the Commission embarks on a program to substantially change rate structures or move to real-time pricing, this may exacerbate the already-increasing rates for many. CURB encourages the Commission to join with CURB, the utilities and other intervenors, where appropriate, in finding mechanisms to make sure there are rate protections and affordability programs for our low-income and fixed-income customers. For example, rate design should ensure that the first block of usage remains affordable for all customers. Rate blocks above this first block can be adjusted upward, if necessary. There are many potential options, but CURB strongly recommends that the Commission determine to seriously address, beyond weatherization programs, plans to ameliorate the negative effects of an increasingly difficult rate environment for consumers.

Finally, CURB has in prior comments suggested that the Commission determine that a third-party non-profit conservation provider should be assigned to supply the DSM programs for Kansas. This third-party model has been use successfully in other states. A third-party provider also allows a consistent statewide approach and eliminates the inherent conflict inherent in asking utilities that are trying to earn a profit to help customers buy less of their product. The Commission has not investigated other models up to this point, and appears only to be following the utility-provider approach. CURB urges the Commission to re-evaluate this approach, and to investigate other options.

WHEREFORE, CURB respectfully submits the above comments for the Commission's consideration.

Respectfully submitted,

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VERIFICATION

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) ss:
COUNTY OF SHAWNEE)

I, David Springe, of lawful age, being first duly sworn upon his oath states:

That he is an attorney for the above named petitioner; that he has read the above and foregoing Comments, and, upon information and belief, states that the matters therein appearing are true and correct.

David Springe

SUBSCRIBED AND SWORN to before me this 21st day of December, 2007.

Vermona E. Runnebaum
Notary of Public

My Commission expires: 2-18-2010.

Vermona E. Runnebaum
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My Appt. Expires February 18, 2010

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