

**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 Development of an RFP for a Third-)
Party Provider or Providers of Energy) Docket No. 10-GIMX-013-GIV
Efficiency Program Evaluation, Measurement,)
& Verification Services)

**ORDER OPENING GENERAL INVESTIGATION AND ASSESSING
COSTS**

The above captioned matter comes before the State Corporation
Commission of the State of Kansas (Commission) for consideration and decision.
Having examined its files and records, and being duly advised in the premises, the
Commission makes the following findings:

Findings and Conclusions

1. In its Order Following Collaborative on Benefit-Cost Testing and
Evaluation, Measurement, and Verification, issued April 13, 2009, in Docket No.
08-GIMX-442-GIV (Order Following Collaborative), the Commission indicated it
would open a general investigation for Staff and other interested parties to engage
in a collaborative process to select a third-party energy efficiency program

evaluation, measurement, and verification (EM&V) provider. Order Following Collaborative, ¶ 153.

2. The Commission found Staff would be directed to initiate such a process and begin drafting a request for proposals (RFP), in collaboration with other parties. The Commission found the parties should address such details as whether one or several EM&V providers should be utilized and whether services would be contracted with each utility or with the Commission. Utilities may propose providers they have worked with as recipients of an RFP, as long as such providers were or are not directly involved in developing the utilities energy efficiency programs. Order Following Collaborative, ¶¶ 153, 154.

3. The Commission observed an EM&V provider or providers selected through this process must be approved by the Commission. The Commission found that details of the EM&V process may need to be changed and refined in the context of the collaborative process. Order Following Collaborative, ¶ 156.

Process

4. The Commission finds that the process of Staff developing a “straw man” proposal initially, followed by collaborative discussions with interested parties, worked well in the 08-GIMX-442-GIV docket. The straw man provided a structure and focus to discussions. The Commission believes the same process would be useful in this docket. Staff is directed to develop a straw man addressing technical aspects of an RFP and the issues noted in paragraph 2, above, and

distribute it to the participating parties. Staff should file its straw man proposal on or before September 1, 2009. As in 08-GIMX-442-GIV, the Commission notes Staff is serving in an advisory role to the Commission in developing a straw man proposal, conducting collaborative sessions, preparing a report, and otherwise advising the Commission in this general investigation docket pursuant to K.S.A. 77-545.

5. Parties shall have 30 days after the straw man proposal is filed to submit comments. Reply comments may be filed if desired and shall be submitted 10 days after the filing of comments.

6. Upon receipt of the comments of the parties, the Commission shall direct Staff to coordinate and schedule collaborative session(s) with the interested parties, request further comments, or take such other action as the Commission deems prudent. Throughout the process of this docket, including, but not limited to, the collaborative session(s), Staff may seek counsel and participation of such outside experts (who are not affiliated with a potential RFP recipient) as Staff deems appropriate.

7. After a collaborative process with interested parties, a proposal for the RFP shall be filed with the Commission by Staff, along with a report on the collaborative process and a list of suggested RFP recipients. The due date shall be set in a subsequent order.

8. Parties will be provided the opportunity to offer comments after Staff's report and the proposal is filed. Unless otherwise ordered, parties should

submit comments 10 days after the filing of Staff's report. Reply comments, if desired, may be filed 7 days after the comments are filed.

9. The Commission will approve or modify the proposal for an RFP based on the parties' comments and Staff's report. Once the collaborative process is completed and the framework and technical parameters for an RFP determined, the Commission plans to close this docket, and the process of issuance of the RFP and selection of a vendor or vendors, in accordance with applicable law, shall proceed as consistent with the Commission's final order.

Participation; Designation of Prehearing Officer

10. All jurisdictional electric and natural gas utilities should be made parties to this docket and will be served with a copy of this Order. The Commission invites participation by the Citizens' Utility Ratepayer Board, which may join the docket by filing a petition for intervention. A copy of this Order will also be served on municipal and cooperative utilities not subject to our jurisdiction for their information.

11. Any other interested party may also petition the Commission to participate in the docket as a party. Petitions for intervention should be filed by August 5, 2009, but petitions filed after that date will be considered and no motion to file out of time will be necessary.

12. All parties that wish to participate actively in the docket should have their counsel file an entry of appearance to be included on a restricted service list

which will assure receipt of copies of comments and other pleadings. Parties who wish to actively participate should file an entry of appearance by August 5, 2009. Thereafter, Staff shall prepare a service list and provide it to all parties that have entered appearances for service of pleadings and procedural orders.

13. The Commission will accept written comments from the public while this docket is pending. Comments should reference Docket Number 10-GIMX-013-GIV, *In the Matter of a General Investigation Regarding Development of an RFP for a Third-Party Provider or Providers of Energy Efficiency Program Evaluation, Measurement, and Verification Services*, and be sent to the Kansas Corporation Commission, Office of Public Affairs and Consumer Protection, 1500 SW Arrowhead Road, Topeka, Kansas 66604, or to **public.affairs@kcc.state.ks.us**. Comments can also be made by calling 1-800-662-0027.

14. The Commission finds a prehearing officer should be designated for this proceeding should it be necessary to conduct any prehearing conferences or to address any matters that may arise that might be appropriately considered in such conferences or by a prehearing officer, including all items listed in the Kansas Administrative Procedure Act (KAPA) at K.S.A. 77-517(b), and any matters that may otherwise be addressed by the prehearing officer pursuant to law. The Commission designates Charles R. Reimer, Advisory Counsel, 1500 SW Arrowhead Road, Topeka, KS 66604-4027, telephone 785-271-3361, email address c.reimer@kcc.ks.gov, to act as the prehearing officer in this proceeding. K.S.A. 2007 Supp. 77-514; K.S.A. 77-516; K.S.A. 2007 Supp. 77-551. The

Commission, as it deems necessary, may designate other staff members to serve in this capacity.

Assessment of Costs

15. Pursuant to K.S.A. 66-1502, the Commission finds that expenses reasonably attributable to this investigation will exceed \$100 and hereby assesses the expenses against all jurisdictional electric and natural gas utilities as listed in Attachment A, attached hereto and incorporated herein. These expenses shall be assessed beginning three business days after the Commission gives the utilities notice of the assessment through service of this Order by United States Mail. These public utilities are hereby notified that they have an opportunity to request a hearing on this assessment in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Commission will pursue an investigation into the matter of selecting a third-party energy efficiency program evaluation, measurement, and verification provider(s) as discussed above. Staff shall file a straw man proposal, as further discussed above, by September 1, 2009. As discussed above, parties shall have 30 days after the straw man proposal is filed to submit comments. Reply comments may be filed if desired and shall be submitted 10 days after the filing of comments.

B. All certificated local exchange carriers and interexchange carriers are made parties to this docket. Other interested parties, including CURB, are invited to file petitions to intervene by August 5, 2009. Parties wishing to actively participate and be on a restricted service list should have counsel file an entry of appearance by August 5, 2009.

C. The Commission designates a prehearing officer for this investigation, as discussed in paragraph 14, above.

D. Costs of this general investigation are assessed against jurisdictional electric and natural gas utilities listed in Attachment A attached hereto as discussed in paragraph 15, above. These public utilities are hereby notified that they have an opportunity to request a hearing on this assessment in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*

E. A party may file a petition for reconsideration of this order within 15 days of the service of this order. If this order is mailed, service is complete upon mailing and 3 days may be added to the above time frame.

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

BY THE COMMISSION IT IS SO ORDERED.

Wright, Chmn; Moffet, Com.; Harkins, Com.

Dated: JUL 08 2009

ORDERED MAILED

JUL 09 2009

 **EXECUTIVE
DIRECTOR**

Susan K. Duffy
Executive Director

crr

ATTACHMENT A

10-GIMX-013-GIV

THIS LIST SHOWS THE JURISDICTIONAL UTILITIES THAT WILL BE ASSESSED THE COSTS OF THIS DOCKET.

DEAN MATTHEWS, FIELD OPERATOR
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