

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

STATE CORPORATION COMMISSION

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

JUL 02 2008

 Docket Room

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

Comments of CURB

Pursuant to the June 2, 2008, order of the Kansas Corporation Commission inviting comments and recommendations concerning energy-efficiency policies and programs that should be adopted by the Commission in the above-captioned docket, the Citizens' Utility Ratepayer Board (CURB) submits the following:

I. Benefit-cost issues

1. **Clear and specific goals.** The Commission's June 2 order does not set forth clear and specific program and policy goals. In its order, the Commission indicates that the results of benefit-cost tests will be evaluated "on a case-by-case basis in a manner consistent with its stated goals." The Commission further states its desire to maintain "flexibility toward energy efficiency programs." If the goals of a particular measure, program, or portfolio are unknown or vague, the results of benefit-cost tests are likely to be uninformative and possibly misleading to the Commission. Without specifically-stated goals that are definable and measurable, how are the parties to determine what outcomes the Commission expects from benefit-cost tests? Simply put, deciding to evaluate programs on a case-by-case

basis provides no guidance whatsoever to the designers of energy efficiency programs, to the utilities who hope to bring forward programs that will be approved, or to the parties who will participate in the approval process. The applicants, participants and evaluators of proposed programs need firmer, more clearly-stated benefit-cost goals.

2. **Education program evaluation.** In its order, the Commission has placed a special emphasis on the desirability of education programs. The Commission has recognized that education programs are unlikely to pass any of the five benefit-cost tests. Therefore, the Commission will not subject education programs to a benefit-cost analysis. Even though education programs are unlikely to pass a benefit-cost test, they should still be subject to review under the evaluation, measurement and valuation (EM&V) standards to be established by the Commission. The Commission should establish criteria for evaluation of the cost and effectiveness of educational efforts, and set parameters that would prevent continuation of costly but ineffective educational programs.

3. **California benefit-cost tests.** The Commission should not modify the *California Standard Practice Manual's* benefit-cost tests. However, the Commission should specify to what extent the Commission will apply more or less weight to specific benefit-cost tests.

4. **Avoided costs.** The Commission's order leaves unanswered the questions of how avoided costs will be identified, and whether avoided costs will be treated differently for gas and for electric utilities. The Commission should develop a consistent method to calculate avoided costs for transmission and distribution and avoided capacity costs associated with peak demand periods. The Commission needs to provide a clear distinction

between avoided peak capacity and avoided energy. The Commission should consider adopting a set formula to be used for all utilities. This will eliminate confusion among all participants in approval dockets and allow for a more uniform and timely evaluation process.

5. **Discount and inflation rates.** The Commission should determine set discount and inflation rates for each energy efficiency measure—preferably something that can be pegged to a national rate or other source. Once the discount and inflation rates are determined, they should be applied uniformly to all similar EE measures.

6. **Carbon regulation.** The Commission says that it believes that there will be some form of carbon regulation in the future. However, the Commission did not state in its order what it believes are reasonable estimates of anticipated costs associated with carbon regulation, and how the Commission will use such estimates in benefit-cost analyses. In order to take the likelihood of carbon regulation into account, the Commission must make assumptions about the prospective level of a carbon tax. The timing of a carbon tax must also be assumed by the Commission. Without such assumptions, no valid benefit-cost ratios can be determined. If the Commission intends to take the prospect of carbon regulation into account in making benefit-cost analyses of proposed programs, the Commission must make the appropriate assumptions concerning the timing and amount of a carbon tax.

7. **Cost-recovery mechanism.** This docket on energy efficiency should not be closed until a final order has been rendered in Docket No. 08-GIMX-441-GIV. Without a clear accounting order indicating how costs of energy efficiency measures will be recovered, it would be out of place for the Commission to set final standards on its energy efficiency policy goals. The cost-recovery mechanism will affect the results of cost-benefit tests,

because certain recovery mechanisms are more costly to consumers than others. The Commission must make specific determinations concerning the manner of cost recovery in order for cost-benefit tests to be reliable assessment tools.

8. **Current programs.** In an attachment to the order in Docket No. 08-GIMX-442-GIV, the Commission identified 41 different measures and programs that have been previously approved by the Commission. The Commission must determine how the standards and policies it establishes in this docket and in Docket No. 08-GIMX-441-GIV will apply to energy efficiency measures, programs and portfolios already approved and implemented in Kansas. The Commission must determine whether the Commission will grandfather in programs that do not meet the newly-established standards, whether it will require modifications of current programs to satisfy the new standards, and whether the Commission will rescind its approval of recovery for programs that fail to meet the new standards. If the utilities are allowed to continue non-compliant programs without modification, the Commission should identify the policy goals that justify allowing non-compliant programs to continue.

II. **Evaluation, measurement & verification (EM&V)**

9. **Budgets and exceptions.** The Commission stated in its order that EM&V budgets should not exceed 5% of the total program costs, but recognized that it may allow exceptions. However, the Commission did not provide guidance or policy for identifying appropriate exceptions. The Commission must identify, at minimum, the policy considerations that would allow approval of an EM&V budget that exceeds 5%, in order to

encourage prudent evaluation administration and to ensure that the exceptions do not become the rule.

10. **Protocols, methodologies, reporting requirements.** In order to ensure that EM&V costs remain within the 5% budget allotment, the Commission must specify minimum acceptable protocols, methodologies, and reporting requirements for utilities (and perhaps third-party evaluators) to follow. The Commission should apply firm and consistent EM&V standards to all EE programs, and should not deviate from them on a case-by-case basis. The Commission should review the standards and guidelines that have been utilized by the California Public Utilities Commission, which has more experience with energy efficiency evaluation than perhaps any other utilities commission in the nation. The *California Energy Efficiency Evaluation Protocols, Technical, Methodological, and Reporting Requirements for Evaluation Professionals* provides detailed formulas and definitions for various types of impact, market and process evaluations.

11. **Scope of savings.** The order leaves unanswered how the Commission defines the scope of the energy savings. Does the Commission want to measure the net savings of the measure, *i.e.*, establish specific algorithms used to calculate gross and net savings?

12. **Baselines.** The Commission needs to specify how a baseline will be generated. A baseline must be estimated against which changes can be calculated. This initial step in evaluating an EE measure, while difficult to define, is the foundation for all EM&V measurements. A properly-defined baseline will address issues like free-riders and spillover.

13. **Free-riders and participant spillover.** The Commission should determine what, if any, evaluation standard will be applied to free-riders, participant spillover, short-term non-participant spillover, and long-term non-participant spillover. Will the Commission design research methodologies to actually measure free-riders and spillover, or use a proxy? Appropriate evaluation standards will address these issues.

14. **Effective useful lives (EUL).** Would the Commission consider determining the effective useful lives (EUL) of EE programs in a similar way that CALMAC did for the CPUC? By stipulating the EUL of various EE measures, the Commission will have created a list of transparent values that can easily be passed from one utility's measures to the next. The Database for Energy Efficient Resources (DEER) can be used as a reference (*see* <http://cega.cpuc.ca.gov/deer/>) in determining the EUL of various measures.

15. **Savings overlap.** The Commission needs to decide whether it will define specific data that staff and interveners require to most effectively quantify the level of potential energy efficiency overlap in savings when comparing the forecast of savings from adopted goals.

16. **Performance standards.** The order leaves unanswered the question of what performance standards will be applied for EM&V of these EE programs. If a program is approved based upon assumptions that do not hold to be true, or if the results of the programs are significantly less than anticipated, will the KCC order the utility to discontinue the program or deny ratepayer funding for that particular program? There is no point to undergoing EM&V if the Commission does not intend to enforce performance standards.

The participants need guidance on what the performance standards are, and what the consequences of failure to meet performance standards will be.

17. **Timing of evaluations.** The Commission needs to determine how often programs will be evaluated. Will utilities be required to conduct annual evaluations of EE measures and programs or will the Commission allow utilities to conduct evaluations on an “as-needed basis” in order to improve and enhance the measure or program?

18. **Evaluators and administrators.** The Commission should determine who will conduct evaluations of EE programs. Will the functions associated with EM&V be performed internally by the utility companies or will the Commission utilize an independent, third-party evaluator? Utilizing an independent, third-party evaluator to conduct EE audits will reduce bias due to the inherent conflict of interest faced by utility companies in offering programs to their customers that may reduce their revenues. Similarly, if the Commission decides that a third-party administrator of EM&V is appropriate, wouldn’t the same rationale justify a third-party program administrator? The Commission appears to surrender administration of the programs to the utilities, but the Commission should consider the option of neutral, bias-free administration and evaluation of EE programs.

III. Recommended publications

19. **Other states’ expertise.** In determining the direction the Commission wishes to take concerning energy efficiency, the Commission should avail itself of the many publications from states such as California, Iowa, and Vermont, where many of the issues now being addressed in Kansas have already been addressed. The Commission should review the

guidelines and results of other states' energy efficiency programs and take advantage of the data and expertise that they have developed as a result of several years' experience with EE policy and program implementation. While the policies and procedures that are in place in other states do not have to be applied verbatim to EE measures in Kansas, they can and do provide guidance in energy efficiency policy for Kansas utilities that would aid the Commission, the utilities and intervening parties in future EE dockets. A list of recommended publications is furnished below.

- **National Action Plan for Energy Efficiency Report**
http://www.epa.gov/cleanenergy/documents/napee/napee_report.pdf
- **Model Energy Efficiency Program Impact Evaluation Guide: A Resource of the National Action Plan for Energy Efficiency**; November 2007
http://www.cce1.org/eval/evaluation_guide.pdf
- **Guide for Conducting Energy Efficiency Potential Studies: A Resource of the National Action Plan for Energy Efficiency**; November 2007
http://www.epa.gov/cleanenergy/documents/potential_guide.pdf
- **Guide to Resource Planning with Energy Efficiency: A Resource of the National Action Plan for Energy Efficiency**; November 2007
http://www.epa.gov/cleanenergy/documents/resource_planning.pdf

- **The California Evaluation Framework: June 2004**
<http://www.cce1.org/eval/CEF.pdf>
- **California Energy Efficiency Evaluation Protocols: Technical, Methodological, and Reporting Requirements for Evaluation Professionals; April 2006**
http://www.calmac.org/events/EvaluatorsProtocols_Final_AdoptedviaRuling_06-19-2006.pdf
- **ISO New England Manual for Measurement and Verification of Demand Reduction Value from Demand Resources, Manual M-MVDR; October 1, 2007**
http://www.iso-nne.com/rules_proceeds/isone_mnls/m_mvdr_measurement_and_verification_demand_reduction_revision_1_10_01_07.doc

Respectfully submitted,



David Springe #15619
Niki Christopher #19311
C. Steven Rarrick #13127
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, KS 66604
(785) 271-3200
(785) 271-3116 Fax

CERTIFICATE OF SERVICE

08-GIMX-442-GIV

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was placed in the United States mail, postage prepaid, or hand-delivered this 2nd day of July, 2008, to the following:

ERNEST KUTZLEY, KS ADVOCACY DIRECTOR
AARP
555 S KANSAS AVE STE 201
TOPEKA, KS 66603
Fax: 785-232-8259
ekutzley@aarp.org

JAMES G. FLAHERTY, ATTORNEY
ANDERSON & BYRD, L.L.P.
216 SOUTH HICKORY
PO BOX 17
OTTAWA, KS 66067
Fax: 785-242-1279
jflaherty@andersonbyrd.com

MATT DAUNIS, MGR ENERGY EFFICIENCY PROG
AQUILA, INC.
D/B/A AQUILA NETWORKS - WPK / AQUILA NETWORKS
- KGO
MSC 81-77
20 W NINTH ST
KANSAS CITY, MO 64105
matt.daunis@aquila.com

LARRY HEADLEY
AQUILA, INC.
D/B/A AQUILA NETWORKS - WPK / AQUILA NETWORK.
- KGO
1815 CAPITOL AVENUE
OMAHA, NE 68102
larry.headley@aquila.com

MARGARET A. (MEG) MCGILL, REGULATORY MANAGER
AQUILA, INC.
D/B/A AQUILA NETWORKS - WPK / AQUILA NETWORKS
- KGO
1815 CAPITOL AVENUE
OMAHA, NE 68102
margaret.mcgill@aquila.com

DOUGLAS C. WALTHER, SR ATTORNEY
ATMOS ENERGY CORPORATION
P O BOX 650205
DALLAS, TX 75265-0205
douglas.walther@atmosenergy.com

KAREN P WILKES
ATMOS ENERGY CORPORATION
PENN CENTER
SUITE 1800
1301 PENNSYLVANIA ST
DENVER, CO 80203-5015
karen.wilkes@atmosenergy.com

GLENDA CAFER, ATTORNEY
CAFER LAW OFFICE, L.L.C.
SUITE 101
2921 SW WANAMAKER DRIVE
TOPEKA, KS 66614
Fax: 785-271-9993
gcafer@sbcglobal.net

SHERRY MCCORMACK
EMPIRE DISTRICT ELECTRIC COMPANY
602 JOPLIN (64801)
PO BOX 127
JOPLIN, MO 64802
Fax: 417-625-5169
smccormack@empiredistrict.com

KELLY WALTERS, VICE PRESIDENT
EMPIRE DISTRICT ELECTRIC COMPANY
602 JOPLIN (64801)
PO BOX 127
JOPLIN, MO 64802
Fax: 417-625-5173
kwalters@empiredistrict.com

ROBERT A. FOX, ATTORNEY
FOULSTON & SIEFKIN LLP
BANK OF AMERICA TOWER, SUITE 1400
534 SOUTH KANSAS AVENUE
TOPEKA, KS 66603-3436
Fax: 785-233-1610
bfox@foulston.com

CURTIS M. IRBY, ATTORNEY
GLAVES, IRBY & RHOADS
120 SOUTH MARKET
SUITE 100
WICHITA, KS 67202-3892
Fax: 316-264-6860
cmirby@sbcglobal.net

CERTIFICATE OF SERVICE

08-GIMX-442-GIV

ROBERT V. EYE, ATTORNEY
IRIGONEGARAY & ASSOCIATES
1535 SW 29TH STREET
TOPEKA, KS 66611
Fax: 785-267-9458
bob@plilaw.com

CURTIS D. BLANC, MANAGING ATTORNEY-REGULATOR
KANSAS CITY POWER & LIGHT COMPANY
1201 WALNUT (64106)
PO BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2787
curtis.blanc@kcpl.com

MARY TURNER, DIRECTOR, REGULATORY AFFAIRS
KANSAS CITY POWER & LIGHT COMPANY
1201 WALNUT (64106)
PO BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2110
mary.turner@kcpl.com

DANA BRADBURY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027
Fax: 785-271-3354
d.bradbury@kcc.ks.gov
**** Hand Deliver ****

PATRICK T SMITH, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027
Fax: 785-271-3167
p.smith@kcc.ks.gov
**** Hand Deliver ****

STUART LOWRY, EXECUTIVE VICE
PRESIDENT/GENERAL COUNSEL
KANSAS ELECTRIC COOPERATIVES, INC.
7332 SW 21ST STREET (66615)
PO BOX 4267
TOPEKA, KS 66604-0267
Fax: 785-478-4852
slowry@kec.org

ROBERT D BOWSER, VICE PRES REGULATORY &
TECHNICAL SERVICES
KANSAS ELECTRIC POWER CO-OP, INC.
600 SW CORPORATE VIEW (66615)
PO BOX 4877
TOPEKA, KS 66604-0877
Fax: 785-271-4888
rbowser@kepco.org

J MICHAEL PETERS, GENERAL COUNSEL
KANSAS ELECTRIC POWER CO-OP, INC.
600 SW CORPORATE VIEW (66615)
PO BOX 4877
TOPEKA, KS 66604-0877
Fax: 785-271-4884
mpeters@kepco.org

JOHN P. DECOURSEY, DIRECTOR, LAW
KANSAS GAS SERVICE, A DIVISION OF ONEOK, INC.
7421 W 129TH STREET STE 300 (66213)
PO BOX 25957
SHAWNEE MISSION, KS 66225
Fax: 913-319-8622
jdecoursey@kgas.com

DAVE DITTEMORE
KANSAS GAS SERVICE, A DIVISION OF ONEOK, INC
7421 W 129TH STREET STE 300 (66213)
PO BOX 25957
SHAWNEE MISSION, KS 66225
Fax: 913-319-8622
ddittemore@oneok.com

WALKER HENDRIX, DIR, REG LAW
KANSAS GAS SERVICE, A DIVISION OF ONEOK, INC.
7421 W 129TH STREET STE 300 (66213)
PO BOX 25957
SHAWNEE MISSION, KS 66225
Fax: 913-319-8622
whendrix@oneok.com

LARRY WILLER, DIR RATES & REG
KANSAS GAS SERVICE, A DIVISION OF ONEOK, INC
7421 W 129TH STREET STE 300 (66213)
PO BOX 25957
SHAWNEE MISSION, KS 66225
Fax: 913-319-8675
lwiller@kgas.com

CERTIFICATE OF SERVICE

08-GIMX-442-GIV

COLIN HANSEN, EXECUTIVE DIRECTOR
KANSAS MUNICIPAL UTILITIES, INC.
101 1/2 NORTH MAIN
MCPHERSON, KS 67460
Fax: 620-241-7829
chansen@kmmunet.org

PATRICK PARKE, VP CUSTOMER SERVICE
MIDWEST ENERGY, INC.
1330 CANTERBURY ROAD
PO BOX 898
HAYS, KS 67601-0898
Fax: 785-625-1494
patparke@mwenergy.com

MICHAEL J VOLKER, DIR REGULATORY & ENERGY
SERVICES
MIDWEST ENERGY, INC.
1330 CANTERBURY ROAD
PO BOX 898
HAYS, KS 67601-0898
Fax: 785-625-1494
mvolker@mwenergy.com

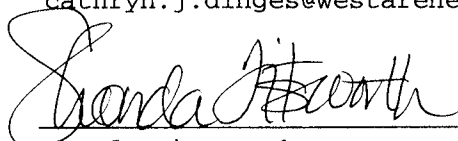
SUSAN B CUNNINGHAM, ATTORNEY
SONNENSCHN NATH & ROSENTHAL LLP
1026 SW WEBSTER AVENUE
TOPEKA, KS 66604
Fax: 816-531-7545
scunningham@sonnenschein.com

THOMAS K. HESTERMANN, MANAGER, REGULATORY
RELATIONS
SUNFLOWER ELECTRIC POWER CORPORATION
301 W. 13TH
PO BOX 1020 (67601-1020)
HAYS, KS 67601
Fax: 785-623-3373
tkhestermann@sunflower.net

MARK D. CALCARA, ATTORNEY
WATKINS CALCARA CHTD.
1321 MAIN STREET SUITE 300
PO DRAWER 1110
GREAT BEND, KS 67530
Fax: 620-792-2775
mcalcara@wcrf.com

MARTIN J. BREGMAN, EXEC DIR, LAW
WESTAR ENERGY, INC.
818 S KANSAS AVENUE
PO BOX 889
TOPEKA, KS 66601-0889
Fax: 785-575-8136
marty.bregman@westarenergy.com

CATHRYN J. DINGES, CORPORATE COUNSEL
WESTAR ENERGY, INC.
818 S KANSAS AVENUE
PO BOX 889
TOPEKA, KS 66601-0889
Fax: 785-575-8136
cathryn.j.dinges@westarenergy.com



Shonda Titsworth