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THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners: Thomas E. Wright, Chairman  
Michael C. Moffet  
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2009.01.14 09:53:49  
Kansas Corporation Commission  
/s/ Susan K. Duffy

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

**CURB's Comments in Response to Staff Report**

**Benefit-cost test analysis**

**1. Use of the five benefit-cost tests:**

CURB supports the Commission's previous decision to place emphasis on the Total Resource Cost (TRC) test and the Ratepayer Impact Measure (RIM) test to determine the economic-efficiency of energy-efficiency programs.<sup>1</sup> Furthermore, CURB agrees that it is helpful for the Commission and other interested parties, to complete all five benefit-cost tests for a proposed energy-efficiency program. However, the Commission should not be required to approve programs simply on the basis that a program passes some or all of the benefit-cost tests.

In addition, CURB appreciates the Commission's emphasis on education and low-income programs, and further understands that these programs may not always pass a benefit-cost test. However, despite the perceived likelihood that a program may or may not pass the five benefit-cost tests, the Commission must still require utilities to provide

this beneficial analysis. In addition to requiring benefit-cost analysis for education and low-income programs, the Commission must also require an evaluation, measurement and verification (EMV) plan to ensure that the program is meeting its prescribed goals and that spending on such program is prudent.

Before discussing budget restrictions for education programs, CURB believes that the Commission must better define what qualifies as an education program. For example, is a program that provides literature on ways to decrease energy consumption and distributes multiple compact fluorescent light bulbs (CFLs) to customers an educational program or a marketing program? Is a program that distributes information to customers, describing the benefits of switching from natural gas to a high-efficiency electric heat-pump an education program or a marketing program? Without a more specific definition from the Commission, both of the previously-mentioned types of programs are examples of what some utilities might define as an education program and others might define as a marketing program. While it may not be necessary to provide a precise definition of “education program”, the Commission should, at minimum, establish a clear set of standards that a utility must meet before an education program will be considered for recovery from ratepayers.

Once a set of clear and precise standards are in place for establishing what qualifies as an educational program, CURB would support recovery for education programs so long as Staff’s recommendation that a cap be placed on education program spending is adopted by the Commission. While CURB supports an annual cap on

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1 *Order Setting Energy Efficiency Policy Goals*; June 2, 2008, Docket No. 08-GIMX-442-GIV

spending for education programs, we are concerned about indiscriminate application of the cap. Staff recommends that 5% of the utility's budget for energy efficiency is an appropriate spending cap. At first glance, a 5% limit appears to be a straight-forward limit, but CURB would note that utilities in Kansas are very diverse in their portfolios, their consumers and their current program offerings. For example, a utility like Kansas City Power and Light (KCPL), which is currently offering a full portfolio of energy-efficiency and demand-response programs, will benefit more from a 5% allowance for education programs than would a smaller utility which only offers one or two energy-efficiency programs. CURB recommends the Commission establish an annual spending cap which would allow utilities to spend a defined number of dollars on energy-efficiency education programs, up to 5% of the utility's energy-efficiency portfolio budget.

**2. Use of formulas from the California Standard Practice Manual**

CURB agrees with Staff's recommendation that the Commission order that the formulas outlined in the California Standard Practice Manual should be used for benefit-cost test analyses submitted with energy-efficiency program proposals. In addition, it is important for the Commission to order that the benefit-cost test analyses must conform to the Standard Practice Manual without alterations to the formulas.

**3. Effective useful lives of energy-efficiency measures**

CURB supports the use of the California Energy Commission's Database for Energy Efficient Resources (DEER), Version 2005.2.01 (or the most recent version) for determining the effective useful life (EUL) of a measure. Utilizing the resources that are

available from California's extensive experience can be invaluable to the Commission and Kansas utilities. While Kansas is in the early stages of becoming an energy-efficient state, California has been in the energy-efficiency business for several decades.

California's DEER contains values for tested measures over many years in some cases. These time-tested values should be considered more reliable than a study that shows the "potential effects" of a measure in Kansas. Although there are obvious differences between Kansas and California, their goals and interests are the same: to make efficient and effective use of each dollar spent on energy efficiency.

CURB is concerned, however, with Staff's recommendation for EULs, and later for other values, that the Commission should permit utilities to deviate from the values prescribed by DEER, allowing utilities to "provide a more reliable or accurate estimate, including any relevant studies to support its contention that the data is more reliable or more accurate." (Staff Report, at 3). While CURB does not disagree that energy-efficiency measures in Kansas may, in fact, have different values than the same measures in California, CURB believes that the Commission should establish a clear preference for historical data over speculative analyzes, and should be clear and concise as to what circumstances must exist for a utility to be allowed to utilize its own estimates as opposed to DEER data. The Commission must define in its order what exceptions would allow utilities to present and use values that differ from those found in DEER.

#### **4. Discount rates**

CURB supports Staff's recommendation that the discount rate utilized in benefit-

cost analysis should be the utility's most recent Commission-approved rate of return for all benefit-cost tests except the societal-cost test. In addition, CURB has no objection to using a social discount rate of 7% and 3% for the societal cost test, as defined in the NAPEE report.

Furthermore, CURB does not strongly oppose the Commission allowing for a unique discount rate for the Participant Test, assuming that the Commission will establish a single value for the residential and commercial discount rate. The Commission should define a single rate, based upon the consumer lending rate for residential customers, define this value through an order, and thereby require this discount rate to apply uniformly to all utilities.

## **5. Attrition rate**

During the collaborative sessions in December 2008, there was a lengthy discussion regarding the definition of "attrition rate" in terms of energy-efficiency. Before the Commission can set an attrition rate, the Commission must first clearly define attrition, and how the measurement of attrition will be used while evaluating energy-efficiency measures. CURB supports the definition of attrition as provided by Staff – "the loss of efficiency of the measure or the degradation in performance of the measure over time." (Staff Report, at 5). CURB further agrees that an attrition rate of 2% for measures associated with electricity and 0% for measures associated with natural gas are appropriate to use until more data are available to develop a better estimate.

However, CURB does not support Staff's recommendation to allow utilities to use

another reasonable estimate for attrition of a particular measure. After lengthy discussion during the collaborative session, it was evident that there was no clear consensus on what attrition was and how it would or should be applied. In this area of energy efficiency, CURB believes that the Commission should define attrition, define its value and not allow for a case-by-case analysis.

## **6. Externalities**

CURB agrees with the straw man proposal provided to parties at the collaborative meetings, proposing that the possibility of future CO<sub>2</sub> regulation is likely and therefore costs associated with such regulation should be included in a utility's avoided-costs structure. CURB has no disagreement with Staff's estimate that CO<sub>2</sub> costs should be between \$25/ton and \$40/ton.

CURB does not support the use of the Societal Cost test to justify energy-efficiency and/or demand-response programs because of the inclusion of externalities. Externalities, by definition, are things that cannot be quantified or are at the very least, "very difficult to estimate."<sup>2</sup> The Societal Cost Test allows for the inclusion of indefinable and immeasurable externalities in order to justify economic efficiency. An energy-efficiency program that is not economically efficient and would not otherwise pass the TRC can be made to pass the Societal-cost test by placing an arbitrary value on the betterment of the state because of the program.

Furthermore, CURB does not support placing an arbitrary value such as

\$0.02/kWh on indefinable externalities. If the Commission is going to allow analysis of the Societal Cost Test for energy-efficiency and demand-response programs, and in that analysis permits inclusion of \$0.02/kWh or some other amount, then the Commission must also include the same value of externalities to be applied when utilities want to make supply-side investments, such as the construction of new coal-burning power plants. The Commission cannot allow utilities to put a thumb on the scale — valuing externalities — for passage of energy-efficiency programs, but then allow utilities to lift the same thumb off the scale for supply-side investments. If the Commission decides to allow utilities to include externalities in the analysis of energy-efficiency programs, the same externalities need to be included in all analyses of supply-side resources as well.

## **7. Energy savings**

CURB agrees with Staff’s recommendation that the Commission “require utilities to utilize DEER to derive energy savings until a Kansas Specific database can be developed.” (Staff Report, at 6). As previously noted, California’s wealth of knowledge and experience with energy efficiency measures is a useful and necessary tool for the Commission and Kansas utilities.

Nevertheless, CURB questions whether the Commission should “permit a utility to provide an alternative estimate of energy savings” as recommended in the Staff report. (Staff Report, at 6). Again this is an area in which the Commission needs to establish a clear preference for DEER-based estimates. The straw man proposal correctly indicated

that there is not a Kansas-specific database in place to measure energy savings associated with energy-efficiency measures. CURB agrees with the straw man proposal, to the extent that until sufficient EMV has been conducted to develop a Kansas-specific database, energy savings for energy efficiency measures should be taken from DEER.

**8. Avoided costs**

CURB recognizes that each utility has its own avoided-cost structures and therefore agrees with Staff's recommendation that the Commission should allow utilities to utilize their own internal modeling for calculation of avoided costs. In addition, CURB further agrees with the Staff recommendation that the modeling process used by utilities to determine their avoided costs should be a transparent process, with all assumptions being provided to interested parties under a protective agreement.

**9. Incremental cost of measure**

CURB agrees with Staff's recommendation that the Commission require the incremental cost of a measure to be equal to the cost to the participant of implementing a measure through the program. If this cost is not directly known, DEER estimates should be used.

**10. Net-to-gross ratios**

It is imperative to the Commission that utilities utilize a reliable, consistent form



of net-to-gross ratios when determining the effectiveness of energy-efficiency measures. As noted in the discussion on energy savings, there is not yet a sufficient database of Kansas net-to-gross ratios measuring free-ridership and spillover effects. Until sufficient EMV has been conducted in Kansas to produce a database with Kansas-specific net-to-gross ratios, the Commission should require utilities to use values as reported in DEER. CURB agrees with Staff's recommendation that if a specific measure does not have a recorded value in DEER, a default value of 0.80 should be used.

#### **11. Baseline calculations**

The development of an accurate baseline is imperative in evaluating the energy savings of an energy efficiency program. The Commission should require utilities to provide baseline data, either through a baseline study or a baseline estimate, in which the assumptions and values are clearly defined as it is vitally important to the benefit-cost analysis.

### **Evaluation, measurement and verification**

#### **1. Budget**

Before the Commission can begin the discussion of appropriate budgets for the evaluation, measurement and verification (EMV) of energy-efficiency programs, the Commission needs to clearly define and differentiate two critical terms: (1) energy-efficiency **program**, and (2) energy-efficiency **portfolio**. During the collaborative session

there was obvious confusion over how the Commission will analyze programs vs. portfolios. The Commission must first, through an order, clearly define energy-efficiency measure, program and portfolio. Without clear definitions of these terms, both the Commission and utility will be unable to effectively plan ahead for the required EMV process.

CURB supports the following definition as provided by the Regulatory Assistance Project in the framing papers for the March 25, 2008, workshop on energy efficiency:<sup>3</sup>

- Energy-efficiency program: the full plan employed by a program administrator to convince a customer or group of customers to implement a measure or a group of measures
- Energy-efficiency portfolio: the group of programs offered by an energy efficiency program administrator

Once the Commission has provided a clear set of definitions for energy-efficiency programs and portfolios, CURB recommends that the Commission place a cap on the level of spending for the EMV process for all energy-efficiency programs. Furthermore, CURB agrees that 5% of program costs is a reasonable budget for EMV. However, similarly to the 5% budget for education programs, CURB believes that the Commission must provide a clear and precise definition of how that 5% is derived.

With the exception of KCPL, most utilities in Kansas are not offering advanced

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<sup>3</sup> Benefit Cost Test: A Framing Document, The Regulatory Assistance Project;  
[http://www.raonline.org/showpdf.asp?PDF\\_URL=%22Pubs/KS-benefit Cost Test Framing Paper JB Edit.pdf%22](http://www.raonline.org/showpdf.asp?PDF_URL=%22Pubs/KS-benefit%20Cost%20Test%20Framing%20Paper%20JB%20Edit.pdf%22)

energy-efficiency portfolios. It was noted during the collaborative sessions that some utilities are not prepared to present the Commission with an entire portfolio of programs, but rather will introduce programs on a one-by-one basis. In Docket No. 08-GIMX-441-GIV, the Commission ordered that utilities will be permitted to submit their “energy efficiency portfolios and budgets” to the Commission for pre-approval.<sup>4</sup> The Commission should clarify in its order that, as part of this pre-approval process, the utility must present a budget for the **program’s** expenses, including a 5% budget for EMV, as well as estimated savings.

**2. Third-party evaluator**

CURB agrees with the EMV outlines as detailed in the Staff report, as well as Staff’s recommendations for the use of a third-party evaluator of energy-efficiency programs. CURB further believes that the Commission should require updates on the progress of each program until such time as a formal EMV is conducted by a third-party administrator. This independent review is necessary to gain an unbiased evaluation of the effectiveness, or lack thereof, of an energy-efficiency program. CURB is more than willing to collaborate with Staff, utilities and other interveners in drafting an RFP for a third-party evaluator.

**3. Utility-conducted EMV**

CURB agrees with the language in the straw-man proposal for utility conducted

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EMV, with the inclusion of an interim reporting requirement. Despite our agreement to allow utilities to perform their own internal EMV and thereby forgo any possible performance incentive, CURB feels the Commission should state its preference that utilities use a third-party evaluator for EMV.

### **Other issues**

#### **1. Program vs. portfolio approach:**

As discussed previously in CURB's comments regarding EMV budgets, the Commission must clearly define the difference between an energy-efficiency program and an energy-efficiency portfolio. Then, the Commission must consistently apply these definitions to all utilities, their programs and portfolios.

CURB believes that it is premature for the Commission to require that utilities offer a full portfolio of programs, given that some utilities may not be currently offering a single program. Alternatively, if the Commission were to order the use of a third-party administrator for energy-efficiency programs in Kansas, similar to Oregon Energy Trust or Efficiency Vermont, that third-party provider would be well-prepared to offer a large portfolio of energy-efficiency programs and measures for all Kansans. The Commission should order a full investigation into the use of a third-party administrator for energy-efficiency programs in Kansas.

## **2. Flexibility to adjust program**

CURB recognizes that utilities may need to tweak an energy-efficiency program after it has been implemented. Further, recognizing that delays associated with formal filings with the Commission could be detrimental to energy-efficiency programs, CURB is not opposed to allowing utilities a clearly-defined level of flexibility. However, the Commission should clearly limit the flexibility to revise programs to a level that will not exceed 10% of the **program's** original budget.

Further, while it may not be necessary to require a formal filing to request a minute increase in an energy-efficiency program's budget, any deviation from the originally-approved budget should be justified in a report to Staff and other interested parties. The Commission should order the utility to report in detail why it is deviating from the original budget, provide an up-to-date analysis of the participation in the program, and explain how the increased expenditure is beneficial to customers.

## **3. Commission goals for energy efficiency**

Despite workshops and never-ending comments in several current and previously-closed dockets addressing energy-efficiency, the Commission still has not provided clear goals for energy-efficiency programs. During the collaborative session, CURB questioned whether the goal was to simply use less, which would be interpreted as conservation, or to use the energy that we currently have more efficiently? Other participants at the collaborative expressed similar frustrations over the Commission's lack of clear policy goals.

In its report to the Commission, Staff noted 11 (eleven) “goals” for energy efficiency as stated in the Commission’s *Order Setting Energy Efficiency Policy Goals*, dated June 2, 2008. These policy goals were discussed by participants in the collaborative session, yet none of the participants seemed to clearly grasp what the Commission’s goals are. It is CURB’s opinion that the Commission must further expand on its energy-efficiency policy goals, and provide more clear-cut definitions and attainable objectives.

### **Bill format discussions**

CURB agrees that Staff and other interested parties should informally explore ways for encouraging energy efficiency through pricing changes, including potential pilot programs which provide more meaningful cost information to customers through billing changes and/or greater internet usage. However, CURB cautions the Commission that extensive changes to current utility billing systems can be very costly to the ratepayer and the utility.

Further, given the level of customer confusion generated by even minor changes to customer bills historically, the Commission should be wary of encouraging wholesale changes in billing. The Public Affairs and Consumer Protection office should play an integral role in designing proposals and informational outreach to customers to minimize confusion and ensure customers understand the changes.

Respectfully submitted,



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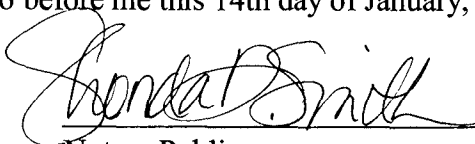
I, Niki Christopher, of lawful age, being first duly sworn upon her oath states:

That she is an attorney for the Citizens' Utility Ratepayer Board, that she has read the above and foregoing document, and, upon information and belief, states that the matters therein appearing are true and correct.



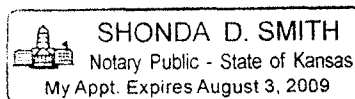
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SUBSCRIBED AND SWORN to before me this 14th day of January, 2009.



\_\_\_\_\_  
Notary Public

My Commission expires: 08-03-2009.





**CERTIFICATE OF SERVICE**

08-GIMX-442-GIV

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