

Citizens' Utility Ratepayer Board

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Joint Committee on Energy and Environmental Policy

Comments on Third Party Energy Efficiency Providers

By David Springe, Consumer Counsel

Citizens' Utility Ratepayer Board

October 29, 2009

CURB worked with AARP to introduce SB 284 last session. SB 284 creates an independent non-profit corporation guided by an independent board with one singular purpose: *to achieve reductions in energy use through increasing the level of cost effective energy efficiency, conservation and education available to Kansas citizens.* CURB believes an entity that can offer consistent energy savings programs and a consistent energy savings message to all of Kansas is be a necessary and important part of our energy infrastructure. For several years CURB has requested the Kansas Corporation Commission use its authority to create such an entity. The KCC has so far declined to do so.

Why an independent entity?

- An independent entity can offer consistent programs and a consistent message across different utility territories. This generates consumer focus on the entity and its purpose, and achieves economies of scale in administration and delivery of programs not possible with individual utility programs. Currently programs differ from utility to utility.
- Provides an independent source of information to consumers and avoids the incentive for electric utilities to promote electric products and for natural gas utilities to promote natural gas products. Consumer can make independent decisions.
- Independent model has been used successfully in other states¹: Vermont, Oregon, New York, Wisconsin, Maine, and New Jersey. Delaware just created an independent "sustainable energy utility".
- Can leverage funds in the Federal Stimulus package intended for energy efficiency and conservation efforts.
- An independent entity with a single purpose is not conflicted about its objective. Investor owned utilities increase revenue and profit by building plant and selling units of energy.

¹ According to the American Council for an Energy Efficient Economy's 2008 State Energy Efficiency Scorecard, five of the top ten states ranked for Utility and Public Benefits Efficiency Programs and Policies had independent entities like that created in SB 284.

Promoting conservation will decrease a utility's revenue and profit. This is a fundamental conflict.

- Avoids having to create other regulatory mechanisms or laws to "incent" utilities to offer conservation, including decoupling mechanisms, lost revenue mechanisms, capitalization of expense mechanisms, shared savings mechanisms.

Kansas now has an independent third party provider

Less than one year after SB 284 was introduced it now seems clear that the question of whether Kansas should have a third party non-utility energy efficiency provider is now moot. The KCC, thanks to ARRA stimulus grants from the Department of Energy, is now operating a \$38 million, independent third party energy efficiency low interest loan program, available to all Kansas citizens and businesses. The program is called "Efficiency Kansas"², which lists as its goals on its website (www.encykansas.com):

- Produce cost-effective energy savings
- Create and retain local jobs
- Transform home and business remodeling to include energy-efficiency upgrades
- Reduce the state's energy consumption and emissions of regulated pollutants and carbon dioxide

To accomplish the goals, according to the website, the program:

- Establishes a revolving loan fund to finance cost-effective energy efficiency improvements in Kansas homes and small businesses
- Requires all improvements be based on a comprehensive energy audit to give customers a customized "diagnosis" and "prescription"
- Finances up to \$20,000 for approved projects in homes and \$30,000 for approved projects in small commercial and industrial building

Other key structures of the Efficiency Kansas model include:

- Giving customers a central contact point
- Comprehensive services (efficiency audits and equipment installations) that are performed by local businesses
- The customer makes his/her own decisions, finances the decision (local banks with reduced interest rates) and pays back the loan over a reasonable time period
- Service is available to all Kansans, regardless whether they reside behind an investor owned utility, local cooperative utility or municipal utility

² The Kansas Housing Resources Corporation is also running a \$50 million low income weatherization program with ARRA stimulus dollars.

Reviewing scope, duties and oversight of Kansas third party provider

Energy efficiency must be a priority for Kansas. Kansas utility customers face an increasing cost environment. Federal climate legislation being debated in congress will likely push utility rates even higher if passed. At the same time the climate bills provide several pools of funds that are directed at helping consumers at the state level increase energy efficiency and decrease energy use. Much like the federal stimulus dollars that are funding Efficiency Kansas, it is likely that additional federal dollars will arrive in Kansas in the future.

Rather than debate whether Kansas should have a third party energy efficiency provider, the real policy question now is whether the scope, duties and oversight of the existing third party energy efficiency provider should be expanded. Relevant questions include:

- Should more than low interest loans be added to the portfolio of services offered by Efficiency Kansas? If so, what services?
- Should the energy efficiency and weatherization programs currently being run by different Kansas governmental agencies be consolidated into a larger centralized program to further expand the scope of services offered?
- Is Efficiency Kansas structured in a way that will allow it to receive federal dollars under the types of proposals being discussed in the federal climate legislation?
- Should Efficiency Kansas remain at the State Energy Office with oversight controlled by the three KCC Commissioners, or should the State Energy Office be moved to an entity with a broader oversight mechanism?
- Funding sources should be discussed. Options include further federal dollars, Kansas tax dollars, a systems benefit charge and fee for service models

SB 284

As drafted, SB 284 was an enabling statute creating and funding a third party energy efficiency provider aimed narrowly at customers of investor owned utilities. Cooperatives and municipal utilities could opt into the program. The shortfall in the bill is that unless the cooperatives and municipal utilities opted into the program, the third party provider would not truly have a statewide scope. CURB believes that the expansion of Efficiency Kansas, available to all Kansas customers, should be state's top priority. SB 284 can service as a second best solution if necessary. Either of these solutions is preferable to having utility specific programs that are different in every utility territory, which appears to be the path Kansas is one currently

Recommendations:

- Kansas must have policy clearly stating that energy efficiency its energy top priority
- Kansas must insure energy efficiency programs available to customers on statewide basis

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SENATE UTILITIES COMMITTEE SB 284

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
March 11, 2009

Chairman Apple and members of the committee:

The Citizens' Utility Ratepayer Board supports this bill for the following reasons:

Energy prices have been climbing in recent years and will continue to climb in the future. Utilities are spending billions of dollars to upgrade facilities to meet demand, meet environmental requirements, enhance the transmission system and make the distribution system more efficient. Add to this the cost of renewable energy and the potential cost of carbon regulation and it is clear that consumer bills will not go down in the future. Natural gas prices have also been volatile in the last few years affecting the many customers that use natural gas to heat their homes. Consumers are struggling to pay their bills and the current recession has only exacerbated this problem. Consumers need help.

SB 284 is a clear statement that the intent of the legislature to help consumers reduce energy use and reduce energy bills. To accomplish this goal, the bill mandates the creation and funding of an independent entity guided by an independent board with one singular purpose: *"to achieve reductions in energy use through increasing the level of cost effective energy efficiency, conservation and education available to Kansas citizens."*

CURB has been a strong advocate for energy efficiency and conservation, both in the legislature and at the Kansas Corporation Commission. Up to this point, the Kansas Corporation Commission appears content to let the regulated public utilities be the only source of energy efficiency and conservation programs for their customers.

Why an independent entity?

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- Provides an independent source of information to consumers and avoids the incentive for electric utilities to promote electric products and for natural gas utilities to promote natural gas products. Consumer can make independent decisions.

- Independent model has been used successfully in other states¹: Vermont, Oregon, New York, Wisconsin, Maine, and New Jersey. Delaware just created an independent “sustainable energy utility”.
- Can leverage funds in the Federal Stimulus package intended for energy efficiency and conservation efforts.
- An independent entity with a single purpose is not conflicted about its objective. Investor owned utilities increase revenue and profit by building plant and selling units of energy. Promoting conservation will decrease a utility’s revenue and profit. This is a fundamental conflict. The board believes utilities will never take conservation seriously².
- Avoids having to create other regulatory mechanisms or laws to “incent” utilities to offer conservation, including decoupling mechanisms, lost revenue mechanisms, capitalization of expense mechanisms, shared savings mechanisms.

What the bill does.

- Provides a clear statement that it is the intent of the legislature to help consumers reduce energy use and reduce energy bills.
- Requires the KCC to create a non-profit entity to pursue the goals of the act.
- Requires the KCC to appoint an independent board to oversee the entity.
- Requires the KCC to establish a charge on consumer bills to fund the entity in an amount no less than ½ of 1% of utility retail revenues.
- Requires the KCC energy programs division to begin the process of develop guidelines for the entity including designing goals and objectives, setting program priorities, developing program infrastructure and recommending appropriate staffing and budgets until the board is able to take over these functions.
- Allows, but does not require customer owned cooperatives and municipal utilities to opt into the service.

¹ According to the American Council for an Energy Efficient Economy’s 2008 State Energy Efficiency Scorecard, five of the top ten states ranked for Utility and Public Benefits Efficiency Programs and Policies had independent entities like that created in SB 284.

² In response to CURB’s suggested rate design changes meant to encourage conservation in the current KCP&L rate case, a KCP&L Vice President of Regulatory Affairs filed testimony stating “Mr. Kalcic (CURB’s witness) indicated the Commission should implement policy that encourages conservation. I disagree, Commission policy should encourage the most efficient use of electricity, not conservation of electricity.” KCC Docket No. 09-KCPE-246-RTS, Rebuttal Testimony of Chris B. Giles, February 23, 2009.

- Requires the entity to maximize the cost effectiveness of delivered energy efficiency and conservation programs and maintain accountability to the utility and customer classes providing the funds that support the program.

What the bill does not do.

- Does not cut the KCC out of the process. The KCC is an integral part of the creation of the entity, appointing the board, beginning the process of establishing objectives and the verification of the entity's success. The bill is not prescriptive and allows KCC a level of discretion in carrying out the objectives stated in the bill.
- Does not cut the utilities out of the process. Utility participation is important to the overall success of the entity. Utilities can serve on the board of the entity. Utilities also still have very important roles to play in demand management programs and in investing in technologies and plant that allow the utility system to operate more efficiently. Utilities are free to do what utilities do best.

Funding in comparison to other initiatives.

- ½ of 1% of 2007 retail investor owned utility revenues equals about \$13 million for all investor owned utilities.
- By comparison.
 - Westar's 300 MW of wind is about \$45 million/year in consumer rates.
 - The Renewable Portfolio Standards passed by the Senate and House will require Westar alone to acquire an additional 600-800 MW's of wind, adding and additional \$80-\$130 million/year in rates.
 - Kansas Gas Service hedging program budget is \$14 million per year.

CURB believes that the most important thing this state can do for a consumer facing increasing energy bills is to give that consumer the tools and knowledge to manage and reduce energy use. This bill will create a customer funded, independent entity whose sole purpose is to help consumers reduce energy use. A consumer needs a simple, one stop, easy to access resource for energy efficiency and conservation information, programs, rebates and loans. A consumer needs the flexibility to access programs regardless of the utility territory in which the consumer lives. A consumer needs the independence to make decisions that are right for that consumer, not accept decisions that may further their serving utility's goals.

CURB believes that the consumer funded independent entity created in SB 284 is right answer for consumers and the right answer for Kansas. CURB strongly supports the passage of SB 284

Thank you for the opportunity to testify on this important bill.

2007 Retail Revenue

Utility	Residential Revenue	C&I Revenue	Lighting Revenue	Other Sales	Total
KCPL	218,510,763	221,947,952	5,073,619		445,532,334
Empire	10,639,257	9,864,084	147,000		21,025,820
Kansas Gas & Electric	235,918,879	361,276,330	4,428,219	375,479	601,623,428
Westar	255,243,884	351,908,328	5,428,292	0	612,580,504
Aquila (Blackhills)	80,551,997	28,845,948		15,157,152	124,555,097
Atmos	106,613,875	40,397,641	0	5,151,164	152,162,680
Kansas Gas Service	555,929,368	145,979,329	0	0	701,908,697

2,659,388,560
13,296,943

1/2 of 1% of retail sales:

Midwest Energy (Electric)	26,464,485	66,299,203	1,376,675	0	94,140,363
Midwest Energy (Gas)	27,425,639	13,273,162	0	0	40,698,801
Aquila	10,891,662	22,731,499	381,938	303,464	34,308,563

Source: 2007 FERC Form 2

PUCO to hear arguments in light-bulb controversy

Oct 15 - McClatchy-Tribune Regional News - Betty Lin-Fisher The Akron Beacon Journal, Ohio

The Public Utilities Commission of Ohio will hear oral arguments on FirstEnergy's controversial compact fluorescent light-bulb program later this month.

The PUCO has scheduled the presentations for 1:30 p.m. Oct. 28 at its offices in Columbus. Five parties associated with the case will each be allowed eight minutes to present their side to the commissioners: FirstEnergy, the Ohio Consumers' Counsel, Industrial Energy Users-Ohio, the National Resources Defense Council and Ohio Partners for Affordable Energy.

Only the parties involved will address the commission, PUCO spokeswoman Shana Eiselstein said.

"This is their opportunity to get everybody in the same place and ask questions," Eiselstein said.

Akron-based FirstEnergy had announced it would deliver two compact fluorescent light bulbs, known as CFLs, to doorsteps of its customers in a program that was scheduled to begin this week.

The program drew criticism from consumers who said they didn't want the CFLs and the accompanying payment of \$21.45 the utility was going to bill them over three years. The payment was to cover reimbursement for the bulbs, distribution costs and a portion of the energy revenue lost by use of the bulbs by consumers.

State lawmakers, including the governor, quickly stepped in and called on the utility to delay the project. After a day, the utility agreed to the delay, until it could further discuss the issue with commissioners.

FirstEnergy officials said they believed they had the proper approvals for the program, while regulators said the utility had not been approved for any recovery of funds from customers beyond \$3.50 for the bulbs.

FirstEnergy spokeswoman Ellen Raines said company officials will be at the oral arguments.

Last week, the Ohio Consumers' Counsel also filed an application for rehearing in the case. The PUCO has 30 days to decide whether to grant the rehearing.