

**Kansas Energy Council
Minutes, July 21, 2005**

The meeting was called to order by Vice Chair, Brian Moline at 10:17 a.m., Thursday, July 21, 2005, at the KCC Second Floor Hearing Room, Wichita.

KEC members present:

Lee Allison, Chair

Brian Moline, Vice-Chair

Rick Anderson

Sarah Dean

Spencer Depew

Steve Dillard

Colin Hansen

Donna Johnson

Stuart Lowry

Jessie McCurry (designee for Patty Clark)

Galen Menard

Richard Nelson

Adrian Polansky

Bruce Snead

Michael Volker

Curt Wright

Visitors:

Susan Duffy, KCC

Morris Korphage, KCC

Robert Krehbiel, KCC

Gary Smith, USDA Rural Development

Staff:

Ernie Dominguez

Debbie Douglass, KGS

Jerry Lonergan

Scott White, KGS

Opening Comments and Introductions

Minutes to the March meeting were approved.

Brian Moline asked Jerry Lonergan, serving under contract as staff to KEC, to provide an update and plan for the FutureGen project. Lonergan distributed an outline of activities and completion dates to have Kansas prepared to compete for the US DOE FutureGen project with the expected January release of the solicitation. Plans are to meet quickly with FutureGen committee leadership and begin drafting the solicitation to invite Kansas communities to submit proposals for possible FutureGen sites. Goal is to release the solicitation by end of August.

Richard Nelson asked if use of herbaceous crops (HEC) with the FutureGen project for co-firing purposes was under consideration since HEC's have the ability to sequester carbon and contribute to pseudo "closed-carbon" loop. Lonergan noted that the focus appears to be on demonstrating coal technology and he would check to determine applicability of the HEC concept.

Ernie Dominguez said that he would be preparing a similarly short paragraph.

Scott White was asked to present the Green Tag report. White noted Green Tag and Green Power would be used interchangeably and that they refer to programs where customers voluntarily subscribe to pay higher electricity cost in order to fund renewable energy projects. He gave overviews of programs in several states and reported on customer participation at each utility. Discussion centered on the Oklahoma Gas & Electric program where consumers have historically paid a premium of

between .75 cents and 2 cents per kWh , the variation due to accounting manipulations based on OG&E fuel costs from other generation sources.

Michael Volker noted the price numbers translate into a 10 to 20 percent increase in a residential customers bill. He later would note that those add-ons are not out of line with national prices.

Richard Anderson sought clarification on what the ultimate marginal cost of a consumer's agreeing to have renewable energy provide electricity. Discussion followed with the Council's request that additional information on what the cost is of providing renewable energy electricity to customers.

White provided additional information on the OG&E program, and noted the Oklahoma commission allows OG&E to annually charge back to rate-payers \$400,000 for promotion of the green power program. Volker noted that cost is not in the 10-20% estimate so the cost to participating customers is a bit higher.

Donna Johnson requested information be collected on how much of the additional funds OG&E receives is used for planning and building new renewable energy generation.

Moline questioned if OG&E, or other green program utilities, had a sense of how sustainable the "volunteer" programs are and that the pool of customers willing to participate will stay small without some additional incentives.

Lee Allison arrived (11:03), noted that he had been delayed by an automobile accident and that all those involved, while a little shaken, are fine. He assumed the chair's role and the meeting proceeded.

White continued with the Green Tags presentation-Scott gave information about the different programs already set up. A 1.5MW turbine costs \$1.6M. There are two programs in Iowa that do not pass on the marketing costs to the rate-payers. But Oklahoma does. Advertising is very important, and TV advertisement is used more than hand-bills.

Depew asked about who owns the 16 new turbines.

White responded that the utility owns them. White also said that the Energy Council would have recommendations to make to the governor.

Allison announced to the group that this is up for discussion in the breakout sessions, and wants to know what direction the Council would like to take.

Volker said that Midwest Energy already has an energy cost adjustment, but Westar does not.

Anderson said that in the late 70's and early 80's, the Feds got in to the business, installed wind turbines on farms because of the incentives, but they then took the incentives away. If we want energy there, why not mandate it, but this is a huge political issue.

Allison said that it may make it less competitive with surrounding states. An RPS may be more beneficial, but it will be difficult to get an RPS through our legislature.

Nelson agreed unless we pass it off as education.

Allison said it would be voluntary.

Anderson asked about what happens when the incentives go away?

Snead said that the timing of the incentives to enable transition to a different mix would be over a long time. What is the time frame? There will be policy decisions. There are 16 RPS's in other states, over a third of states have RPS's in some form. If we make a commitment, it will be because of what we know about, we can try to make it take place.

Johnson said it depends on what you are trying to trade off. This could bring manufacturing of turbines up - a lot of turbines are still coming from overseas. The incentive is taking new technology to get manufacturing up to scale to do here in U.S.

Anderson said that we don't need incentives, it will be competitive and self-sufficient.

Allison responded that we don't want to be left behind.

Anderson said that this is going to happen.

Allison said that we have charts that show the cost of electricity, and that the cost is going down – have seen the 20-year trend line. In Iowa they are getting ready to build the 2.5 MW towers.

Johnson said that the Montezuma turbines are 750MW. Kansas is already behind. Plants are going in other states. It is a tradeoff where the state should be.

Volker said that it is not bad to put investment in technology, think fuel diversity is a good thing even at a premium.

Dean asked about who we are aiming for with this kind of incentive program. Is it to satisfy the demand for people that want to buy green? Are we trying to stimulate Kansas wind development? What are we going to do with this?

Allison answered that it would be all of those. We need to encourage utilities, and help them. Also to build economic development, Kansas resources, environmental benefits, with a minimum impact on both sides.

Dean asked if it would be tied to Kansas green tags? Some places say they would buy from Kansas, so it would help to develop wind in the state.

White responded that we could recommend that state agencies consume a percentage of electricity from renewables, and use green tags as renewable energy credits. EPA bought from Montezuma. Missouri bought from California.

Moline asked about how you are going to get from here to there, with the transmission issue. There is the new Kansas transmission law this year.

Transmission Authority - there are billions of dollars here, which will add to the end result of the commodity. This raises issues about building wind farms in areas of Kansas that have no transmission lines.

Allison asked that members discuss this issue in their breakout sessions, and see how to respond to the Governor, and what recommendations to make.

Polansky asked for more information, to make decisions.

Allison said that we would gather information, see what options there are, and what the next steps will be.

Allison distributed the legal opinion on the issue of wind development in Butler County. The commissioners made an agreement, and money was exchanged. A local resident filed suit saying that it looked like a bribe. The Council wants to resolve the issue. It was passed on to the Governor's legal counsel in January, but they were not able to deal with it immediately, so the Dept. of Administration legal staff took it on, and issued their opinion yesterday. In the handouts, on page 4, in the last paragraph they conclude that with no statutory process, or case law to allow these to go forward, negotiations are subject to legal action.

Anderson said that there is no incentive or benefit for a county to allow development, the landowners get the benefit by payments.

Johnson shared that the original negotiations with FPL Montezuma, was for no property tax. Everyone is happy. As they tried to move east, they were met with opposition, and it was too costly with legal costs.

Allison said that instead of modifying the property tax exemption, they could come up with a production tax on wind. The questions are how big, and no buy-in from developers. The production tax could go to the county. Now there is debate in the counties about having the production tax go to the state. I want to know if we should go forward, and work with legal bodies and legislators. Developers would like to make contributions and counties would like to receive them, but there is a legal issue.

Johnson said that she would like to have something put on the books this year in the legislature, and have it say this is a legal negotiation. Some counties want money to go to the local school or that the county gets so much, and the city gets so much. There needs to be a way to create a win/win situation. The county should get something from the wind developer. No developer has said that they don't want to make the payments.

Snead said he feels it should be part of the zoning process.

Johnson responded that some counties are not zoned, should make this legal.

Discussion followed about making negotiations legal, the time frame for negotiations, whether during the zoning process or not, and what the financial part of negotiations should be used for.

McCurry asked about this happening in other states and how it was handled.

Johnson responded that other states reduced the tax burden on renewables, and they don't pay the same rate as other producers of electricity. The capital costs are upfront in wind, the tax base can't be compared.

Moline stated that you can pass a statute, but it doesn't stop the legal actions.

Allison asked if the Council would ask KEC staff to prepare a proposed statutory resolution that will authorize such payments and under what circumstances. We could have this body say that there can be an established contribution under these guidelines.

Polansky made a motion that the Council consider the resolution language at the next meeting, and if appropriate, then move forward. Polansky stated that he would like it to be simple.

Johnson seconded the motion.

Discussion:

Allison suggested that there would be some proposed legislation, and pursue drafting a bill that would address negotiations and payments.

Menard said that this would be a pass through, the county gets the deal and are on their own.

Allison said there would need to be some legal clarification.

Johnson asked that we don't get too specific. We need to ask attorneys to figure out what is reasonable. Johnson said that the money is going to be on the table during the zoning process.

Menard asked why Butler county's legal people are not pushing for this?

Allison answered that the Governor's legal counsel said that there needs to be a statutory process, and clarification, not just legal opinion.

The motion is for what KEC staff should be doing.

Depew asked that in the proposed legislation, consider putting in that any payments made will be distributed as if they were a tax, that the county can't take the money and cut out the school district. The money would be treated as if it were a tax.

Allison said that they would include in the discussions and also look at current law.

Snead said that he had been involved in zoning, and development issues, and think that we are really talking about an economic development situation. Snead said this would be where property tax abatement is in place. We should be looking for a way to be applied state-wide, and keep out of zoning decisions.

Johnson said that we should let the state people figure out how it should be worded.

Allison responded that we will work with legal counsel and legislative staff and come back with a draft proposal to this group.

Lowry said that it should be an amendment to current law.

Allison asked the group for a vote – the motion passed unanimously.

Lunch: 12:05 p.m.

Break into sessions and reconvene here at 1:00 p.m., committees will make short reports, and make recommendations.

The group reconvened at 1:25 p.m.

Allison introduced Gary Smith, from USDA Rural Development, Topeka.

Smith gave information about the 2002 farm bill, section 9006, efficiency program. It is a five year program that is in the 3rd year. The program provides funding to farmers, ranchers, and rural small businesses. The program attempts to find out how to integrate resources to provide grants for new energy systems, biomass, wind, solar, geothermal, hydrogen, energy efficiency, do improvements, insulation, etc. The money in the past two years has been put out in grants. The regulations were sent out last Monday, and the deadline is Aug. 31 for applications, grants and loans. The funds come from congress, if the dollars are not used in Kansas, they get used in other states. We want to make the money available. Smith said that he met with Patty Clark earlier, to find ways to make programs accessible.

Johnson said that Kansas isn't getting applications in, and there is a lot of money out there. There are things we can do to take advantage of programs.

Smith said that he set on the panel of first review of applications. Other states are doing better than we are.

Allison asked for committee reports:

Dillard reported from the Petroleum Committee – we discussed a few items, not much that would fit into pro-active suggestions. Discussed crude prices in Kansas. NCRA is the states largest refinery; they handle low quality Canadian sour crude, made Kansas oil sweet, the outcome is that it dropped the price in Kansas about \$2.00. We expect that it will likely erode more, but not sure what we can do. H2S – natural gas in SW KS, we have reviewed the situation, and will see regulations come out of the Corporation Commission in the future, most of the data has been compiled. We will address the Ethanol demand later on, as per the agenda. The Committee talked about the green tag issue and decided that if people want to volunteer to do, let them do it, as long as it doesn't cost us anything.

Hansen reported from the Utilities Committee – we touched on 3 issues, 1 – captive rail issue, and the difficulty in the Midwest and nationwide in getting coal to power plants. We think it has to do with railway mergers over the last decade, and after discussion we would like to put forward that the Council make a policy statement on oversight of railways, and state the Council's position.

Allison asked where this would fit in. Last winter we put together state policy statements on the federal government, and the Governor took it to the Kansas delegation. Are some things happening in the federal government on rail issues?

Hansen stated that the Utilities committee was in favor of that. On the Green Tags issue – we recognize the possibility of there being federal renewable portfolio standards, and we need to keep an eye on that. Someone needs to get the ball rolling in Kansas, this group may be who does it, need to be upfront with the costs in promoting that. We feel we need more information on the green tag proposal. We are in support of it being voluntary as opposed to mandatory. Is the cost recoverable or paid for by program participants. State Renewable Program – we have 2 comments: don't think should limit the RFP to only Kansas. The political aspect of raising the cost for state agencies could damage the chance of getting this through.

Johnson reported from the Renewables Committee – we talked about two studies in the state right now, funded by KCC, Commerce is to look at bio mass, KS Inc. is looking at what everyone else is doing in energy, pulling database together. We are trying to understand the different standings of the committees. On Green Tags most of us agree with the idea. We endorse the concept of the state buying green power, but want to look at before the next meeting. In looking at monies, 1% phasing in over time, what would the recommendation be from the committee.

Allison said it sounds like that all of the committees would like us to come back with more details, focus, and a set of recommendations for green tags. We could have an explanation of models of funds, and costs. Scott can go ahead and expand on the report, and come back in September. On State Energy usage – everyone needs to better understand.

Hansen said that he thought that would be a hard sell, and not look at just in Kansas.

Allison said that rather than taking votes, we will get sense of where we are going, revamp reports, and revise reports for consideration. What other things do staff need to be doing? Do we need to be looking at the rail issue?

Hansen said that his committee would be in support of that.

Lowry also said he would be agreement with that, that it won't require a lot of research.

Allison stated that utilities across the country are running out of coal. It will cost 1.2 cents a kilowatt hour if they have to change over to natural gas, it would go to 6 cents a kilowatt hour and that would be passed on to consumers.

Allison announced that there are two briefing papers in process, and that KEC staff have met with the Water Office, and discussed the planning process.

Snead said the concept paper accepted by the council at the last meeting, had no further development. Snead said that he and Richard Nelson would be meeting together tomorrow.

Allison brought forward the FY06 proposed budget, and that KEC closed out last fiscal year with about \$35K left over. He stated that we have encumbered the remaining funds using KGS staff salary, contract for FutureGen work, etc. \$100K was allocated for FY06. KEC has contracted with Jerry Lonergan for FutureGen, and contracted expertise. Allison requested approval for the budget for FY06, and went over the budget with the Council.

Johnson asked about what DASC does. She stated that we have maps, wondering what the \$10K to GIS is for, don't see what they are doing. Do they stick a dot on a map?

Allison stated that DASC is updating maps and they will be doing the mapping for the FutureGen project.

Nelson asked about the technical committee and can we ask them to do work for us. Who do we talk to about that? Does it run through Scott White or Ken Nelson?

Allison said that there needs to be discussion about that. We need to make sure that they know that they are to do something for someone, so it may need to go through Scott. GIS is putting railroads on the existing map. Last year we didn't use all the money we had in the different categories.

Johnson said that we didn't spend the money on conferences or exhibits, she would rather see the money put in staff support.

Allison said that we are trying to do that. We have \$59K set for the planning process, we could hire someone, or contract someone to work on that. We will continue to budget for some things. We had the wind conference this past spring, where we could have put a booth up. We are buying a couple of subscriptions. We have \$15K encumbered for contracts. Allison said that he hoped to have approval for the budget.

Dean asked about contracted expertise, is it anticipated or are we doing?

Allison said that he ran the contract through the executive committee, then the contract was put in place, with Jerry Lonergan part time. We have \$59K for the planning process for staff support.

Johnson asked what is money like for a doctoral student, 20 hours a week, masters or doctoral students.

Allison stated that that is an option. It would depend on the level of the student; they may need a lot of supervision.

McCurry asked if there is an opportunity to replace Liz Brosius?

Allison said that we may be able to hire through the state.

Duffy stated that there is not an FTE for that replacement, but we could contract with someone. It would be a year-by-year contract based on funding availability and needs.

Dillard moved to approve the budget as presented. The motion was seconded.

Allison stated that he will run by the Executive Committee or the whole Council on how to spend the \$59K for the planning process.

The vote was unanimous.

Allison thanked Susan Duffy and the KCC on the budget work and cooperation.

Discussion on the 2007 process and proposal. State agencies are putting their budgets together now to give to the Governor for this fall. What does it cost and what is involved, to do the planning process, then we give the proposed budget to the Governor through the budget process, indicating what we want to do, and what it will cost. We have never done that. Over the next two months, staff will be working with the Water Office to understand their planning process. They are pulling numbers together to give us.

Duffy said that budgets are due to the Governor by Sept. 15. You could submit a separate budget from KCC, and let her decide where it should go.

Allison said that we will have the budget approved by this group before then. Allison asked if there are other things we should be doing, along the lines of grant, loan, or education programs.

McCurry asked if you know what the number might be to do the work we have been asked to do?

Allison stated that the Water Plan is \$2M a year, and they have two dozen staff, but they have built up over the years. Energy is a \$10B a year to the state gross product. Core planning for developing concept papers would be \$100-200K per year.

Moline said that we are going to have to figure out what we are doing, as the legislature cut a third of the budget.

Johnson said that she talked to Tom Sloan, and he is who was behind the cut. He said no one was talking to him, or any legislative group. He said that you put a box around the Flint Hills, and no one talked to the legislature. Johnson said that you have to be wining and dining them.

Johnson stated that we are spending time mending fences.

Allison said that he spends a lot of time working with legislators.

Dean said she felt that KEC needed a lobbyist but should call it a communication tool.

Allison said that over the next six weeks, we would put together the planning process and go to the Governor with a request for funding. We will develop the process, get feedback, to meet the Sept. 15 deadline. Allison asked that KEC members consider the scope of what we need to be doing, and get back to him.

Allison then talked about the Energy planning process – thought we would have fleshed out. We have approved the process based on the water planning process. We have met with Water Office staff about how to move forward with the concept papers, which are very generalized, but very concise. The staff prepares briefing papers to come back to this body, then go out for public review. We would have a technical advisory committee. Allison suggested that we adopt a similar project, set up two energy planning advisory committees - one for renewable energy roadmap, and one for energy efficiency. The advisory committees would be interested and expert folks outside of this Council.

Polansky said that the technical advisory committee would consider the typical concept paper which would be community wind farms. Polansky feels that we should have an outside group look at that issue, or ethanol, or more specific issues. We don't have a track record here, and we are trying to accomplish three things at a time.

Johnson stated that this is what we spent most of our time on in our committee. She feels someone at this table should be included on the technical advisory committee as the expertise is in this room.

Allison said that he has been struggling with how big a bite this is.

Johnson said the two issues we chose do not include the rail issue in Kansas. This is not easy to solve, but is something we can work on.

McCurry stated that we are asking you to make this one issue. The renewables roadmap is going to take five years. It could be ethanol.

Johnson stated that this group is still doing the long term overview planning.

Allison said the briefing or background paper may identify the items with the greatest need, or benefit. The technical advisory committees can put together after we identify the issue.

Nelson said to have the committee decide the issue, and bring it to the Council. Who helps write this background paper? It is an educational thing.

Polansky said the draft should go to the renewables committee, and then bring it back to Council to get concurrence, then appoint the technical advisory committee to identify priorities. Polansky said the he sees the background paper being fully developed before the next meeting.

Allison stated that the Chair recognizes the consensus of the group, and will continue to write up and flesh out, and get input from the Water Office. Richard Nelson and Scott White will take the lead on the paper, and circulate before the next meeting.

Allison then asked for discussion on current energy issues, and ethanol in Kansas, briefing from Dillard and Wright.

Wright talked about E-10 and ethanol from the distributors and retailers point of view. Ethanol was cheaper to buy, about 4-7 cents per gallon cheaper from pricing in January. There has been an explosion of demand. The infrastructure was not prepared. The distribution to retail from loading bays is difficult, like the Phillips rack, they don't have ethanol available on all racks. A year ago, we would only go through 10K gallons per day, but now we get four e-mails a day - they have ethanol, then they don't have, then they do, then they don't. This has created long lines in loading, with a 2-2 1/2 hour wait in line to load ethanol. The side issue is that they lose truck drivers, they are paid by the number of loads delivered, when waiting in line, they are losing two loads a day, so they lose pay. Losing drivers is a workforce problem, and they have had to institute a waiting charge at the terminal at \$60-\$100 an hour, but they only have to wait on ethanol. These are things that are happening, it has created a problem, but the market factor will work out over time. We are starting to get to the point where you see a 4-5 cents differential, but because of transportation costs, it is on 2-3 cents. Ethanol is not available at all racks. It is not at Olathe, and a couple here in Wichita do not have it

available. The market is trying to work through this but it is going to take time. The federal side is permitting to enlarge tanks, but that is a 2-5 month process to get approval.

Menard stated that in 1997 they added ethanol to their loading facility, it was automated, and they installed a 20K gallon tank at that time. Six months ago we went to 100K gallons a month. It has grown, based on economics. Went through 575K gallons last month. It is a logistical challenge, as we are not sized to fit three truck-loads at a time, the third truck has to wait. It is a challenge to schedule trucks, but we are adding 2 tanks, and will have 60K gallon capacity as opposed to 20K gallons we have today. Council Bluffs, Iowa has been a big seller of ethanol for a long time, but they have gone from 500K gallons per month to 1 million a month, just ethanol gas.

Volker asked Menard if they mix the ethanol with gasoline.

Menard stated that the actual amount used is mixed with gas, 80K to 600K gallons a month. Menard said that there have been a lot of outages, so he is not sure what the business could have been. Menard said their ethanol comes from Campus, Kansas. From McPherson to Campus is not a one hour drive. The challenge is to keep the product supplied, as the increase has been dramatic. The loading rack is not set up to load that much ethanol, as it only had one arm and could only load 25% of the amount. The price in June for ethanol was \$1.22 per gallon, gas was \$1.60. Yesterday ethanol was \$1.89 per gallon.

Anderson asked what is driving this increase of ethanol use.

Menard answered that it was economics, and the tax incentive. E-10 had a 7-8 cent price advantage in the market place, and it shows at the pump.

Anderson said that for the consumer it is less than 10 cents per gallon.

Wright stated that it could have been a penny a gallon and that would drive the increased use.

Polansky said that the labeling issue makes a difference.

Volker stated that economics makes it more positive.

McCurry said that there will be a lot of new plants come along, half a dozen are probably going to get built, but more likely it will be 12. There is a need for more producers and for everyone to be educated. Some will be built, which will bring availability.

Polansky said that he visited Campus with the Governor three weeks ago.

Volker stated that the Campus plant was limited to 30M gallons a year because of tax exemptions, but are bringing it up to 45M a year.

Polansky said that in the next 6 months it will be 80M gallons a year.

McCurry said that in doing some quick math with the plants that we think will get built, there could be 250M gallons more in Kansas.

Polansky said that this is not consumer driven, but business driven, where margin plays a factor.

Johnson asked if they can sell E-10 in your 87 octane without telling anyone?

Wright answered that that is what is happening.

Volker said he recently saw mid-grade - 89 octane, for 10 cents cheaper than 87, and that is what is driving that.

Menard said that refineries might do that since octane isn't an issue anymore, they could produce sub-grade - 84 1/2 octane.

Allison asked Menard if you can use poorer quality crude?

Menard replied no.

Allison talked about the resurgence of interest in nuclear energy. Gene Merry is in Hawaii at a meeting. The news is that there is some interest in building new nuclear plants.

Moline responded that it will take two generations to happen, the mind set is still there. And they are going to have to find a place to put the waste.

Allison said that for the upcoming meeting, we would look at what is out there regarding nuclear energy. The Compact commission just received \$1.5 M from the state of Nebraska.

Commissioner Merry has invited us to the Wolf Creek Nuclear Power plant for our October meeting. We would get briefings on nuclear energy while there.

The group accepted the invitation and Allison will inform Merry that we accept his invitation.

Allison then brought up the issue of labor shortages and workforce development and talked about a program being developed by industry and state university programs, to do training at community colleges.

Dillard said that this is a great idea. It is a 1 to 2 week program, introduced to industry, but we need to get people to show up. The labor force in western Kansas is not anxious to join the oil business. It is a difficult time to get people to join up and make good money. The drillers would earn about \$18 an hour, the roughnecks would earn \$14 an hour, depending on what area of Kansas they would be working in. There is a lot of overtime. We are just trying to find ways to attract the workforce.

Allison said that the cooperation is being so favorably viewed, that the idea is going to be imitated by electric industry.

Lowry stated that there is a program already set up at Pratt.

Allison said that there needs to be a decision on where to have the Sept. 15 meeting. We will tentatively plan to be back in Topeka.

Johnson stated that there is a Kansas Inc. white paper on refineries in Kansas, which has some general information to consider. Johnson asked if energy is going to be part of the Prosperity Session #2.

Allison said that he asked and was told that it was a good point, but don't have an answer yet.

McCurry said that he would ask when he gets back to the office.

The meeting adjourned at 3:20 p.m.