

**Kansas Energy Council  
November 16, 2007 Meeting Notes**

**KEC Members Attending:**

Ken Frahm, Co-Chair  
Lt. Gov. Mark Parkinson, Co-Chair  
Richard Anderson  
David Dayvault  
Sarah Dean  
Joe Dick  
Stephen Dillard  
Jay Emler  
Bill Harrison  
Carl Holmes  
Steve Johnson  
Jeff Kennedy  
David Kerr  
Janis Lee  
Stuart Lowry

Galen Menard  
Gene Merry  
Hans K. Nettelblad  
Adrian Polansky  
*Jesse Romo (for Deb Miller)*  
Mark Schreiber  
Tom Sloan  
Bruce Snead  
Josh Svaty  
Mark Taddiken  
Michael Volker  
Steve Weatherford  
Curt Wright

**KEC Staff:** Liz Brosius, Corey Mohn, Ray Hammarlund, Dana Maher  
**KCC Energy Programs Division Staff:** Leslie Uhl

**Opening remarks, introductions**

Co-Chair Ken Frahm opened the meeting by introducing the new director of the KCC Energy Programs Division, Ray Hammarlund who stated that he looks forward to working with the Council. Frahm called for a round of self introductions for the benefit of the Council's new members.

**KEC planning process and possible changes**

*Standing Committees, Ad Hoc Committees*—Frahm provided background on some proposed changes to the KEC planning process that staff and the Co-Chairs had discussed. He noted that some of the proposed changes would allow the Council to be more nimble and deal with pressing issues in a more timely fashion. KEC Director Liz Brosius and Hammarlund outlined the proposed changes: (1) to establish three standing committees to work on priority topics during the first half of the year and (2) to adopt a protocol for establishing ad hoc committees to address issues that require consideration in a shorter timeframe (roughly two months). The full Council would have an opportunity to vote on any recommendations coming out of either committee.

Brosius also pointed out that the *Kansas Energy Plan*, as staff understands it, contains two distinct work products: background information and policy recommendations. She acknowledged that this distinction needed to be clarified, particularly with respect to what is released for public comment in the future and that this would be discussed more fully in relation to the background information on greenhouse gas emissions released for public comment in September. All

proposed changes, clarifications to the KEC planning process would be discussed again at the December 5<sup>th</sup> meeting and a vote taken to formally adopt.

Janis Lee asked for clarification regarding the recommendations from the standing and ad hoc committees, noting that she wanted to ensure that the full Council would be provided with information before it votes on any recommendation, and that time would be allowed discussion. Brosius and Frahm explained that the recommendations would go before the full Council. It's possible that the committee recommendation would be reported separately from the full Council's recommendation.

Brosius noted that the meeting dates for 2008 would probably have to be changed somewhat if the KEC decides in December to adopt the proposed changes to the process.

Sarah Dean and Jeff Kennedy asked for clarification about the committee names and what content the committees will actually address, each stating that the focus of the standing committee was not apparent from the name. Hammarlund said that staff is not wedded to the committee names, that they were an attempt to encompass the totality of important energy issues in Kansas.

Brosius said she would send out additional and hopefully clarifying information on the proposed standing committees prior to the December 5<sup>th</sup> meeting.

Kennedy recommended that the committees meet at the same time to allow people to participate in more than one committee.

Bruce Snead asked whether the KEC staff have the resources to support and staff three standing committees, noting that this year's committees did not continue to meet separately. Hammarlund and Brosius acknowledged that it was a good question, but that they thought it would be possible for staff to work with the three standing committees during the first half of the year.

*Revised Outline for Kansas Energy Plan*—Brosius discussed some changes to the structure of the Kansas Energy Plan, again noting the distinction between the background information (the "Topic/Issue" and "Existing Policies and Programs" sections of the plan) and the energy policy recommendations (the "Policy and Program Recommendations" section of the plan).

Brosius offered the following description of the contents of the *Kansas Energy Plan* for consideration and adoption in December:

"The *Kansas Energy Plan* contains the energy policy recommendations developed annually by the Kansas Energy Council (KEC) and delivered to the Governor, Legislature, and Kansas Corporation Commission each January, prior to the opening session of the Kansas Legislature. Along with the recommendations, the *Kansas Energy Plan* also includes background information on related energy topics, which are updated periodically to keep them current. The KEC develops additional sections of the *Kansas Energy Plan* during each annual planning cycle."

Dean noted that the Kansas Energy Plan is not a plan, but an archive of information and policy recommendations. She referred to the language in the Executive Order related to development of a comprehensive, long-term energy plan, saying that this was an issue she had raised throughout her tenure on the KEC.

Brosius agreed that the name, “Kansas Energy Plan,” is potentially misleading. The work product of the KEC is defined more narrowly—to provide policy and program recommendations to the Governor, Legislature, and KCC on an annual basis.

Co-Chair Frahm noted that he sees a plan as being something put together by the executive and legislative, so maybe the wording is inappropriate for the KEC. Dean replied that the executive order references a “comprehensive long-range plan,” but said she did not want to rekindle that debate.

*Possible 2008 Priorities*—Brosius reviewed the topics staff had compiled, essentially as “straw men” for consideration and further discussion in December. She recommended that the number of primary topics be kept to three or four, and asked for comments, questions, and suggestions.

Mark Schreiber asked whether the KEC wanted to consider the accords adopted by the Midwest Governors Association (MGA). Frahm said this was a good question, and asked if the KEC should backfill for the governor after offering no prior advice? Tom Sloan noted the accords call for 30% of electrical generation to come from renewables; therefore, the KEC needs to address wind power and transmission.

Frahm asked for clarification of the MGA’s greenhouse gas accord and noted the KEC had tabled the GHG draft recommendation at the last meeting.

Steve Johnson said that it appears that the Legislature, KCC, Governor, and KEC operate in parallel without actually coordinating. He thinks that the KEC’s role should be to produce the energy information/advice the Governor, Legislature, and KCC would turn to.

Frahm stated that the KEC has avoided all of the hot button issues. He requested that KEC members email staff with suggestions if they now wish to get involved in contentious issues.

Hans Nettelblad wanted to know if the KEC will be retroactively issuing an opinion on the MGA accords, urging the Council to be forward-thinking rather than retroactive.

Lee stated that the KEC should examine all topics to develop understanding of issues, even ones such as this that have been decided.

Jay Emler argued that this is the Kansas Energy Council, not the Governor’s Energy Council, and the KEC shouldn’t back off because the governor has already taken a position.

*[Lt. Governor and KEC Co-chair Mark Parkinson arrives, apologizes for lateness.]*

Frahm posited that the discussion had boiled down to whether the KEC should deal with these issues retroactively. He stated that he got the sense that the KEC wanted to add a review of the governor's decision to the priorities list, asked if there was any disagreement, and suggested that a motion be made.

Kennedy moved to add a review of the MGA accords to the list of possible priority topics for 2008, and Lee seconded the motion. Further discussion clarified that the motion did not require that this would be a priority topic for 2008 or preclude other items to be added to the list. The motion passed unanimously on a voice vote.

Brosius asked KEC members to send her any additional items to add to the list prior to the next meeting.

#### **Public comment on draft recommendations and background information**

Brosius summarized the content of the public comments, noting that the written comment can be accessed on the KEC website ([http://www.kec.kansas.gov/public\\_review\\_07.htm](http://www.kec.kansas.gov/public_review_07.htm)). Frahm remarked that the public comment is a good process to go through.

#### **Kansas Energy Plan 2008: Greenhouse Gas Emissions background information**

Frahm clarified that he and Co-Chair Parkinson had supported staff's decision to release the GHG background information for public comment, and if a mistake had been made, they shared the blame with staff.

Brosius went on to explain that the decision to retain the GHG background information and release it for public comment was based on a distinction of the content in the Kansas Energy Plan: background information and policy recommendations. Although the draft recommendation had been tabled at the August 15<sup>th</sup> meeting, Brosius said she decided (with the Co-Chairs agreement) that the "Topic/Issue Description" and "Existing Policies and Programs" should be included in the draft documents released for public comment. However, she noted that at least one KEC member had contacted her and expressed surprise that the background information had been released.

Brosius said that the confusion was part of the impetus to clarify the KEC process (as discussed earlier in the meeting). She passed out an excerpt from the August 15<sup>th</sup> meeting notes, in which the GHG recommendations were tabled, as a reference.

Kennedy said he thought that the draft GHG recommendation was the tabled item, not the background information. He said that as someone who participated heavily in the debate at the August meeting, Kennedy felt it prudent to clarify that GHG's should not be ignored by the KEC. He wondered if someone who accessed the document released for public comment online might not understand that the information does not constitute a recommendation? Brosius said that the web site noted that this was "background information" and stated that there was no policy recommendation associated with this topic.

Dean pointed out that the draft GHG document provided for this meeting was not the same version released for public comment. Brosius said that was correct, that all the "plan drafts" had

been revised somewhat since the conclusion of the public comment period. If the Council concludes that the GHG background information can be considered for inclusion in this year's plan, then the new document will be discussed.

Bruce Snead moved to continue including the draft GHG background information for consideration in this year's Kansas Energy Plan, and Kennedy seconded.

Following substantial discussion, Frahm clarified that the motion was to retain the version of the background information already posted on the web site (associated with the record of the public comment process). A yes vote on this motion would not be interpreted as an endorsement of the revised draft document dated November 16, 2007. A no vote would be interpreted as tabling the GHG topic for remainder of the year, though of course the topic could be brought up as a topic for next year.

In response to a question about whether information from other presentations would be considered as part of the GHG background information, Brosius said that the content of the GHG plan draft was based largely on the KEC staff review, "Greenhouse Gas Emissions: Policy and Economics." Presentations to the Council, if available in electronic format, are posted on the Meetings page of the KEC website. The vote would not affect the posting and archiving of past or future presentations.

The motion failed on a vote of 13 to 12. Brosius clarified that what she thought the KEC had just endorsed was the removal from the web site of the draft document that had gone out during the public comment process.

*Break*

Revisiting the previous discussion, Frahm explained that there would be no discussion of the revised GHG background information since the KEC vote before the break had effectively tabled the issue for the rest of the year.

### **Presentation on geologic storage of carbon dioxide**

Frahm introduced Tim Carr, a geologist from West Virginia University and formerly of the Kansas Geological Survey and a member of the KEC.

Carr's presentation "Greenhouse Gas: Carbon Capture and Storage and our Energy Systems" is available on the KEC web site (<http://www.kec.kansas.gov/meetings.htm>, *click on link under November 16, 2007 meeting heading*).

In his presentation, Carr noted that the current market for CO<sub>2</sub> is absolutely saturated and unprofitable unless a producer is right next to a user. He also pointed out that IGCC with carbon capture and storage is not yet a proven technology and will not be economical with the low-sulfur coal currently being used from the Powder River Basin.

Schreiber asked where R&D into IGCC and carbon sequestration is occurring. Carr responded that a lot of the research is sponsored by the DOE. Research projects are often a combination of public and private money, with utilities working with public institutes and taking public money

to deflect the risk of investing in unproven technology. Carr also noted that the U.S. had invested more money into CO<sub>2</sub> R&D than all of Europe combined.

Steve Dillard asked whether the pipeline costs estimates discussed in the presentation were for stainless steel piping. Carr answered that those prices are for steel pipes, and that steel prices will probably increase significantly due to international competition for steel and the devaluation of the dollar.

Frahm asked Carr to list the difficulties in achieving geologic storage of carbon dioxide and assess whether they are surmountable. Carr responded that sequestration will take decades to achieve. One problem is that progress is currently frozen while businesses wait for the government to set clear-cut rules.

Lee asked what an appropriate standard for use by a regulatory agency would be, and Carr responded that pounds of CO<sub>2</sub> per unit energy would be useful.

Lee asked whether other technologies exist to bring down current CO<sub>2</sub> emissions? Carr answered that U.S. coal-fired power plants only run at 30% efficiency, while those in Germany run at 44% efficiency by burning at “supercritical” temperature and pressure. Carr stated that replacing the U.S.’s current plants with more efficient ones would likely represent a CO<sub>2</sub> reduction wedge by itself.

Dave Kerr asked about the economic impact of being a “leader” in sequestration. Carr said that was a complex issue and difficult to answer. He added that, in general, the U.S. is as efficient as Europe in energy production, but individuals in the U.S. live in much larger homes and drive further. Per capita consumption in the U.S. will have to change.

Josh Svaty asked for an estimate of the per-kWh cost of carbon sequestration. Carr responded that no one has very good estimates and costs vary depending on the size of the plant, but it was safe to say that it would be “a lot.”

Carl Holmes asked whether capturing CO<sub>2</sub> at a power plant represents a 30% increase in the cost of generation. Carr said he had heard the 30% figure, and noted that IGCC is less efficient simply because of the additional step, consistent with the laws of thermodynamics.

*Lunch break*

### **Kansas Energy Plan 2008: Ethanol and biodiesel plan drafts**

Corey Mohn gave a quick overview of the revised plan drafts for ethanol and biodiesel. He noted that the drafts had not been revised substantively, though there were now separate drafts for ethanol and biodiesel. Other changes involved updating numbers to reflect the latest information. The draft recommendation was essentially the same, though staff had fleshed out the details of the recommendation and implications (pros and cons).

Holmes pointed out that the sixth item listed in the “existing policies and programs” section of the ethanol draft does not apply to producers of grain based ethanol and should therefore be

removed. Frahm called for a motion; Holmes moved, Curt Wright seconded, and the motion passed unanimously.

### **Update on KCC energy efficiency dockets**

KCC Utilities Director Don Low summarized the recent KCC action on with respect to the general investigation dockets on energy efficiency, referencing the summary he'd provided KEC staff for the existing policies and programs section of the Energy Conservation and Efficiency plan draft.<sup>1</sup> He noted that utilities are currently offering EE programs, so KCC concluded there is no need to require. He asked for opinions or questions on the timetable for the two current dockets, one addressing the cost-benefit test to be used for energy efficiency programs and one addressing cost recovery, decoupling, and incentives.

Holmes said that 3 to 6 months would work better with the legislative cycle than the proposed 6 to 9 months. Low acknowledged that the Legislature had the prerogative to require the KCC to speed up its determination. He noted that Janet Buchanan, KCC Chief of Telecommunications, would be coordinating the staff effort on the EE dockets.

### **Kansas Energy Plan 2008: Energy conservation and efficiency plan drafts**

Brosius explained that the changes to this document since the August meeting mostly changes in numbers. Parkinson suggested that the Council review the draft recommendations and vote to approve the entire section, rather than voting on each recommendation.

*Provide state funding to expand weatherization assistance to low-income households*—Brosius outlined the recommendation to provide \$2 million in annual funding for the Weatherization Assistance Program (WAP). Further discussion clarified that (1) the previous \$2 million funding was a one-time appropriation and had been spent, allowing WAP to weatherize 30 percent more homes; (2) the recommendation would be to establish annual funding; and (3) the annual funding would require annual legislative approval.

*Expand existing low-interest revolving loan program to facilitate adoption of energy conservation improvements by all Kansas homeowners*—Brosius explained that the recommendation would call for the existing loan program to be changed in the following ways:

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<sup>1</sup> In September 2006, the Kansas Corporation Commission opened a generic investigation (Docket No. 07-GIMX-247-GIV), *In the Matter of a General Investigation Regarding Energy Efficiency Programs*. After comments by interested parties and a Staff report, the Commission issued a Final Order on October 10, 2007. The Order concluded that the Commission should continue to work collaboratively with the utility companies to further energy efficiency programs and need not address various legal issues regarding KCC authority to mandate programs. The Commission found that it should develop a uniform framework for reviewing and encouraging energy efficiency programs. It therefore opened two separate dockets on November 6, 2007. The first one, Docket No. 08-GIMX-442-GIV, is intended to address the benefit cost tests to be used in evaluating potential EE programs. The second proceeding, Docket No. 08-GIMX-441-GIV, will look at cost recovery, decoupling and incentives. Comments and reply comments on numerous questions posed in the orders are due December 21, 2007, and January 14, 2008, in the first proceeding, and January 25, 2008, and February 15, 2008, in the other docket. The Commission intends to conduct informal workshops in both proceedings. The goals are to complete these dockets in 6 and 9 months, respectively, but the orders recognize that the timelines may need to change.

(1) to remove income eligibility requirements and make the loan available to all Kansas homeowners, (2) to allow lenders to charge up to 5% interest on total loan, with KHRC providing state funds for one half the loan amount (up to \$7,500) at 0% interest; and (3) to allow the 5% interest rate to be adjusted in the event of a national rate increase.

Following further discussion, the KEC clarified that the loan program would be open to all Kansas lending institutions (that Sunflower Bank had been the only lender who had initially agreed to participate with KEEP when it was first developed). Steve Weatherford noted that KHRC had plans to meet with the Kansas Banker's Association. The recommendation does not call for any additional appropriation at this time since less than 10% of the original \$2 million had been loaned at this point. The Council agreed that the key public policy question addressed by this recommendation was whether the loan program is intended primarily to reduce energy consumption or to assist low-income families.

*Develop programs to promote voluntary adoption of residential energy efficiency codes by local units of government*—Brosius explained that this recommendation had not changed except to reflect a change in office names and asked for discussion and questions.

Following some discussion, two provisions of the recommendation were clarified: (1) the model code will be based on an existing code, (2) the advisory group would not necessarily be drawn from or attached to the KEC.

*Amend existing laws relating to energy efficiency standards for commercial and industrial structures*—Brosius summarized this recommendation to amend K.S.A. 66-1227 to clarify enforcement of the energy efficiency building codes it adopts.

Nettelblad asked whether the proposed enforcement would be above and beyond the current building inspection and plan review process and whether the recommendation is a move to negate home rule and achieve minimum standard enforcement. Brosius said the draft recommendation does provide for IECC 2006 becoming an enforceable statewide minimum standard.

Nettelblad stated that he believes the mechanism for “funding and enforcement” is already in place. Brosius pointed out that small jurisdictions lacking building codes have no enforcement ability or infrastructure.

Emler said that if the KEC recommends this language, Council members and legislators will need to work closely with the League of Municipalities. Many of the League's 350 city/town members are adamantly opposed to this since they have no way to pay for or enforce it; it is seen as an unfunded mandate.

Snead asked whether an architect or engineer stamping a set of building plans and required to comply with state law is also not required to check for compliance with the adopted IECC 2006 codes.

Holmes pointed out that the crux of the matter is who enforces since many rural counties and towns lack zoning laws. He stated that during the Special Committee on Energy, Natural Resources, and the Environment meetings, one committee member asserted that cities and counties might buy into the program if Kansas reinstates demand transfer.

Gene Merry, representing the Kansas Association of Counties, stated that the Association would much rather have a carrot than a stick. Frahm pointed out that the KEC must be committed enough to lobby for this.

Emler said that as a first step this recommendation could be folded into the earlier recommendation to develop model standards. If the combined model standard recommendations go through, the KEC can try addressing the problems with K.S.A. 66-1227 in 2008.

Frahm asked if Emler was making a motion, and Emler said that he so moved that the commercial and industrial sector be folded into the previous recommendation for adopting model energy efficiency building codes, Taddiken seconds, and the motion passes unanimously.

*Adopt energy efficiency standards for all new publicly funded structures.*—Brosius outlined the recommendation, noting that this recommendation was something of a placeholder until the legislative interim committees had finalized their recommendations regarding public buildings.

Parkinson asked whether LEED had been discussed as a standard for this proposal. Brosius answered that a particular standard had not been put forward in the draft proposal.

Taddiken asked if the Council intended to go beyond energy efficiency in this recommendation since LEED contains a number of green provisions not strictly related to efficiency. Parkinson replied that he didn't know enough about the IECC to know how the two standards compare.

Emler stated that he thinks the Special Committee on Energy, Natural Resources, and the Environment will recommend that all new state construction and major renovations exceed IECC and ASHRAE by 25%. It was noted that the next meeting of that committee is Dec. 4<sup>th</sup>, so the KEC may have more information at their next meeting on Dec. 5<sup>th</sup>.

Taddiken suggested that it would be a good idea to disseminate a draft of the legislative committee's draft recommendation to the council, and Brosius said she would follow up with legislative research staff.

Nettelblad and Snead both commented that energy efficiency also includes "embodied energy," where the building supplies come from, as well as health impacts on building occupants. Nettelblad said LEED is extremely popular because it addresses these issues, and Snead noted that it is not necessary to go through the expense of the LEED process, that builders can use LEED as a guideline without going for certification.

*Provide funding for energy conservation education in the public schools (K-12)*—Brosius stated that the proposal is to fund K-12 education with \$30,000, which would train about 200 educators through the Kansas Association for Conservation and Environmental Education (KACEE).

Frahm asked if there was any discussion and whether the council was ready to vote on the entirety of the draft recommendations, except the recommendation to develop model codes. Snead moved to approve the remaining energy conservation and efficiency recommendations, Merry seconded, and the motion passed unanimously.

### **Update on federal farm and energy bills**

Mohn informed the Council that the Farm Bill appears to be dead; the Senate did not get the 60 votes necessary to move it forward and people close to the action expect that the current Farm Bill will be extended with an eye for creating a new bill in 2009. The Energy Bill is nearly dead, with some slight hope for a minimal bill, but much expectation that a new Energy Bill will not be created until 2009. Since the Senate will have the same membership in a year, it is possible that the same deadlocks will occur in 2009. Adrian Polansky agreed with Mohn's assessment.

### **Other business**

Brosius reminded the Council members that the next meeting will be Dec. 5<sup>th</sup>, same time, same place.

Mark Schreiber announced that a public hearing regarding Westar's predetermination filing (KCC docket 08-WSEE-309-PRE) will be held on November 26<sup>th</sup> and 27<sup>th</sup>.

Snead asked for a quick update on the Summit Blue energy efficiency potential study. Brosius reported that the initial meeting had been held with the contractor and KEC working group (which includes representatives of utilities that are providing data for the study). The objective of the study is to provide snapshots of the potential for efficiency and conservation in the residential, commercial, and industrial sectors.

Kennedy asked where more information on the MGA accord could be found; Schreiber noted that it was on the Westar website, and Brosius said she would send it out electronically to the Council.

Dean asked when ideas for the future structure of the energy plan will be discussed, and Frahm indicated that ideas should be shared with Brosius.

Nettelblad asked for clarification on the GHG issue. Brosius said that her understanding of the motion and vote earlier in the meeting was that the topic had been tabled for this year, although it may be added to the list of topics to consider in 2008 (which will be selected by the KEC in December).

Merry asked about the KCC staff wind study and Don Low said staff is finalizing the study.

*Meeting adjourned*