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Environmental Quality Commission

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**KENTUCKY ENVIRONMENTAL QUALITY COMMISSION
PUBLIC FORUM
September 1, 2011**

Meeting Minutes

Kentucky State University
Aquaculture Research Center
Multipurpose Bldg. Room 101
Frankfort, Kentucky

EQC Commissioners Present

Scott Smith, Chair
Dr. Kimberly Holmes
Jason DeLambre
Tom Herman

EQC Staff Present

Arnita Gadson, Executive Director

Speakers/Representatives Present

Jeff DeRouen, PSC Executive Director
Aaron Greenwell, PSC Deputy Executive Director
Greg Guess, Division for Efficiency and Conservation, Director
Kate Shanks, Department for Energy Development and Independence, EEC
Aaron Patrick, Division of Renewable Energy, EEC
Barbara Pauley, Attorney, Office of General Counsel, EEC

The Environmental Quality Commission (EQC) held a public forum Sept. 1, 2011.
The meeting was called to order at 6:43 p.m. by Chairman Scott Smith.

Presentations

Jeff DeRouen, PSC Executive Director

Aaron Greenwell

Speakers offered a disclaimer regarding their inability to discuss open cases.

A short history on Thomas Edison - emphasizing his early invention, the light bulb. He completed this as a private citizen and not a representative of government. He built the first power plant in lower Manhattan on Pearl Street.

Major-General Sir Henry Mill Peliatt used Niagara Falls to generate electricity to Toronto, Canada. Totally unregulated project gave him control over charges to his customers. During the Depression, it was felt that this was unfair so the privilege was taken from him.

An overview of the mission and history of PSC was given starting with its creation by the Kentucky General Assembly in 1934.

PSC mission: to ensure that utility rates are fair, just and reasonable for the services provided and that those services are adequate, efficient and reasonable

Clarifications were given as follows:

PSC does not set energy policy or broad utility regulatory policies. It operates in accordance with statutes, regulations and judicial precedent. It regulates rates and services of:

- Natural gas distribution systems and interstate transmission pipelines
- Telecommunications
- Electric
- Sewer
- Water

Approximately 1,550 regulated utilities

Legal Framework

There are three chapters under Kentucky Revised Statutes:

- 74 Water Districts
- 278 Public Service Commissions
- 279 Rural Electric and Rural Telephone Cooperatives

Public Service Commission Regulations

- Set forth implementation of Statutes
- Kentucky Administrative Regulations 807:5

Kentucky Power came on line in 1920- investor owned

- Duke Energy, on line 1920 - investor owned
- Louisville Gas & Electric- investor owned
- Kentucky Utilities – largest customer-based in Kentucky



There are 9 Distribution companies regulated by the PSC. There are three commissioners appointed by the governor, with the Executive Director appointed by the commissioners. Other employees are appointed by the Commission through the Executive Director.

Administratively speaking, PSC is attached to the Kentucky Energy and Environment Cabinet at this time.

Funding

PSC is underwritten by an assessment on regulated utilities paid as part of their rates. It flows through the KY General Assembly is allocated by the legislature. The current budget is \$10 million.

Non-Jurisdictional Utilities are as follows:

- Municipally-owned utilities
- Utilities that purchase power from the Tennessee Valley Authority
- Sanitation districts
- Propane gas
- Cable or satellite television service
- Railroads, trucking companies, taxicab or bus companies

Key Issues

Pending and past rate cases

Electric reliability

Possible effects of federal energy policies

Financial and operational viability of small water, sewer and natural gas utilities

Every regulated utility must file their gross receipts by June 1st of inter/intrastate receipts.

Rates for low-energy efficiency are plugged into energy rates.

The Energy Efficiency or DSM statute allows for recovery for Demand Response Load Control on air controls that can reap a line-item recovery, based on usage.

Customers can see Demand Side Management surcharges required by the commission on their invoices. The cost is passed directly to the customers.

Statute says that the DSM programs must be cost effective, which is somewhat problematic in Kentucky given our low energy rates. There are DSM and Energy Efficiency programs that might be appropriate and cost effective in California that are not so in Kentucky.

Utilities are required to provide least cost service in preparing their 15-year outlook in determining their load forecast.

DSM's, IOU's and Distribution Cooperatives were discussed.

There are energy efficiency opportunities not in use because Kentucky's energy is cheaper. As user costs rise, more efficiency programs will be used.

PSC ratemaking process

The governing statute KRS 278 provides fair, just and reasonable rates, and investors' opportunity to earn a return. There is a two-part process, revenue requirement and rate design.

Intervenors:

- Kentucky office of Attorney General – representing residential customers
- Representative's unique interests contributing evidence that otherwise might not be brought before the PSC, that may not be addressed by the Attorney General's office.
- Kentucky Industrial Utility Organizations

Details of trade-offs are not always specified.

Resulting rates must still meet the qualifications given as fair, just and reasonable.

Settlements:

- Must be unanimous
- Resulting rates must still meet the test of "fair, just and reasonable"
- "Black Box" settlements do not always specify details of trade-offs

Revenue requirement

Actual numbers used are calculated over a "test year" from a previous 12-month period, but may be forecasted. Promotional, executive bonuses, etc. are not allowed. Unusual or one-time cost or revenue are excluded. Final revenue requirement is based on a company's allowable expenses.

Rate design

Utilities must submit a "Cost of service" study to determine the cost per class (rate, residential, commercial, industrial, etc.) as part of their rate application. Some rebalancing of cost usually occurs in every rate case.

Discussion:

No statute authorizes the Commission to offer DSM. However, it was felt that there should be statutory regulations to require it.



Argument for renewable and efficiency standards would give PSC a different regulatory framework. Because of Kentucky's low rates, no policy mandates are available for easily accessible fuel. For example, to purchase an energy efficient water heater will bring about savings, however, there is a \$10 monthly charge for the water heater that would apply to your bill. Many issues are still being raised. Energy efficiency is a big part of Gov. Steve Beshear's 7-Point Energy Plan.

Low-income persons may receive help with energy costs from a LIHEAP program via Community Action Program agencies. The federal pass-through funds come from a Heating Energy Assistance Program.

Up for discussion is a pilot on Bill Financing

Barbara Pauley, Esq., General Counsel, EEC TVA Consent Decree

The TVA Consent Decree is on EEC website. Main points:

- Pursuant to the Federal Clean Air Act, the TVA (Tennessee Valley Authority) and Federal Government entered into a settlement in February, 2011 in which TVA agreed to reduce its air pollution at two of its coal-fired plants in Kentucky: the Shawnee Plant in Paducah and Paradise Plant in Muhlenberg County, in an effort to move toward cleaner burning fuels.
- TVA provides electricity to parts of seven states. It serves 225,000 households in Kentucky in 28 counties in South Central and Western Kentucky.
- The enforcement actions stem from federal actions against TVA in 1999

Other issues of the settlement:

1. TVA is required to invest between \$3 billion and \$5 billion to upgrade pollution controls that will prevent premature deaths, heart attacks and asthma attacks across their multi-state footprint – Kentucky, Alabama, Tennessee and North Carolina.
2. TVA is to pay \$11.2 million to the Commonwealth of Kentucky to use toward energy efficiency initiatives.
3. One million dollars was provided to the National Park Service and the U.S. Forestry Service to improve and protect or rehabilitate forest and park lands affected by emissions from TVA plants. Mammoth Cave is an NPS park and Daniel Boone National Forest is a USFS parcel.

4. The KY Heritage Land Conservation Fund reaped \$10 million from civil penalties – Kentucky and Alabama.

Kate Shanks, DEDI (Department for Energy Development and Independence), EEC
Aaron Patrick, Division of Renewable Energy

Kate and Aaron demonstrated how the **Kentucky Electricity Portfolio Model 2025** is used. It calculates expenditures of using coal and energy generating alternatives. The model can estimate Greenhouse Gas (hereafter GHG) usage on coal power plants. With new GHG regulations expected from EPA, costs are estimated to rise. The calculations with data input will be done automatically to provide energy efficiency estimates.

Scenarios were used, i.e., nuclear energy usage data input, retiring 75 percent of Utilities. Upfront expenditures would be tremendous. In the end, however, emissions would be reduced. The model includes the price increase and cost. This information is based on assumptions.

Nuclear power is easy to operate, but has a massive construction cost, the same with solar. It adds up to localized energy costs.

Wind did not end GHG emissions.

Coal has the least amount of cost in energy efficiency.

Other forecasts discussed:

- Electricity Consumption Forecast – based on EPA changes.
- General Forecast – makes decision on simplifying energy use based on a coal assumption model.
- National Gas Consumption.
- Green House Gas Emissions.
- Forecasting Mode – allows model to make fluctuations in pricing.
- Kentucky Residential Expenditures – only made at the state level.

The goal of the model - a sensitivity analysis to give the highest value that is reasonable, based on data inputs.

GHGs went up as environmental controls were installed.

Greg Guess, Director
Division for Efficiency and Conservation

Stimulating Energy Efficiency in Kentucky



Cooperative Agreement between the U.S. DOE (Department of Energy) and the Kentucky Department for Energy Development and Independence (DEDI)

Goal – to achieve 1 percent energy efficiency across the Commonwealth,

Electricity energy savings, to include natural gas

Support for the projects are from:

- Midwest Energy Efficiency Alliance (MEEA)
- American Council for an Energy Efficient Economy
- Smith Management Group (SMG)

Roles:

- DEDI – Program Management
- MEEA – Stakeholder processes
- ACEEE - Analytical products
- SMG – Subcontractor to MEEA

Need for Energy Efficiency (EE)

- The low cost electrical rates Kentucky enjoys will change in the future.
- Gov. Beshear's 7-point energy strategy expresses a goal of meeting 18% of Kentucky's projected energy needs by 2025 through energy efficiency.
- Utility rate increases are expected due to proposed EPA Clean Air Act regulations.
- With this, EE may be the alternative to better manage energy bills and avoid future increase in cost.

Process to meet Kentucky Goal

Seek stakeholder input from utilities, manufacturers, legislators, nonprofit, etc.

Summary of Findings:

- Almost no support for mandatory energy efficiency standards
- Support for the current DSM statute – IOUS
- Programs for low income consumers
- Rate Design – Co-ops
- Older manufactured housing/mobile homes negatively impact energy efficiency
- Industry opt-out

Barriers to Energy Efficiency:

- Current appraisal and mortgage systems do not value energy efficiency



- Zoning can impact replacement of energy inefficient manufactured housing/mobile homes
- Cost recovery of energy efficiency upgrades is generally limited to a 1.5-year to 5-year time frame
- Lack of standardized metrics to compare EE programs.

Next Steps:

- Assess the effectiveness of current EE programs policies within Kentucky, and practices in other similar states
- Other meetings have taken place to narrow program and policy measures to achieve energy savings through EE

Energy Efficiency Initiatives

1. EECBG Small Cities and Counties Initiative – DLG
2. Energy Management Software and Controls for State Buildings – FAC
3. Green Bank of Kentucky – FAC
4. High Performance State Government Building Staffing – FAC
5. High Performance Sustainable Energy
6. Research Laboratory – UK
7. Housing, Buildings and Construction Energy Efficiency Codes Inspections and Training – KDHBC
8. Stimulating Energy Efficiency in Kentucky – U.S. DOE Coop Agreement
9. Industrial Facility Retrofit Showcase – CED
10. Industrial/Commercial Sustainability Program
11. KDHBC – Building Energy Codes Training – Portland
12. Kentucky Energy Efficiency Program for Schools – Energy Managers (SEMP)
13. Kentucky Energy Efficiency Program for Schools (KEEPS) – KPPC
14. Kentucky Energy Efficient Appliance Rebate Program
15. Kentucky Farm Energy Efficiency and Renewable Energy partnership – GOAP
16. Kentucky Green and Healthy Schools Program (GHS) – KEEC
17. Kentucky Home Performance with ENERGY STAR - KHC
18. Kentucky Multi-County Collaborative Agricultural Energy Initiative Program – GOAP
19. Kentucky National Energy Education Development (NEED) Project
20. Kentucky Net Zero Energy Schools – Kenton County
21. Kentucky Net-Zero Energy Schools – Warren County
22. Save Energy Now – KPPC
23. State Energy Education Curriculum Project
24. Utility Smart Grid Initiative

Contact information:

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- **Samantha Williams** – MEEA, swilliams@mwalliance.org



- **Scott Smith – Smith Management Group**
scottr.smith@smithmanage.com

Final Discussion – EQC

Scott Smith on topic of oil and gas – EPA has decided to regulate air emissions for oil and gas operations. This will have a tremendous impact. It is currently approximately a 600-page draft. Draft was released the last week of August, 2011 with a two-month comment period.

On Extraction – Permitting issues- there is an Environmental Justice movement on the extraction side.

Jason – Met with EEC PR division’s Dick Brown, Cindy Schafer and Ricki Gardenhire, and Arnita. Discussion centered around how to use new technology for increased visibility.

Highlights: Website template, develop a portal for information throughout the Cabinet, tabs for departmental information. How do we increase communication to develop a new role for EQC. Add published reports. Formal state sanctioned blog. Social page for dialogue. Facebook to blog where we can initiate information. All information would be reviewed prior to postings and monitored. PR scrutiny on all information prior to posting.

The conversation on branding was very positive. PR expressed an interest in assisting in developing an informal blog as a template for other departments. Showed the Cabinet blog “Down to Earth.”

Scott – How are blogs used effectively?

This information can be gleaned from the Public Relations Department

Long information will go into archives

Calendar of Events can be listed

Holmes – capture number of hits/visitors

Can’t blog anonymously.

Commissioners are to send ideas to Jason or Arnita.

Publications, events, dates, etc. - things that are relevant to EQC.

Changes are limited as far as the official state government site itself, however we can alter the drop-down menus and develop a logo specific to EQC.



A name for the site has been developed “Naturally Speaking.” Meetings are already listed. The EQC publication “State of Kentucky’s Environment 2000-2001” cannot be dropped into the website at this time because of its large size.

The survey mentioned in an early meeting was forwarded to the PR department. A follow-up is needed for this.

Scott – Commissioners are to be prepared to discuss ideas at the next meeting.

Jason – a conversation might be helpful to discuss specific issues over a 20 – 30 minute call.

Arnita – an idea to post rules for making presentations, before the Commission.

Last day of employment for LaTisha Barnett, executive secretary for EQC – Aug. 25, 2011 to wed. There was discussion of her replacement and it was decided that the Chair would write a letter of recommendation for replacement.

LaTisha took care of the commissioner’s pay and all efforts will be made for this to continue in a timely manner.

The motion for the recommendation was made by Dr. Holmes and 2nd by Tom Herman for the recommendation to be forwarded to the Secretary. It was approved unanimously. The draft letter was to be initiated by the Executive Director.

Two commissioners resigned Dr. Stephanie McSpirit, Eastern Kentucky University, and Attorney Kim McCann of Ashland, Ky.

Minutes from last meeting - Corrections – “Core” of Engineers should read “Corps” of Engineers, on Page 9. Jason wanted to amend his comments, will send changes.

Tom Herman moved that minutes be approved with changes. Kim Holmes seconded. It was approved unanimously.

All regulation changes will be forwarded by e-mail to EQC commissioners prior to the meeting, as they are forwarded to Exec. Director Arnita Gadson from EEC departments. If attention or discussion is needed, commissioners are asked to forward requests prior to the meetings.

Tom Herman– Updating EQC publication “State of Kentucky’s Environment 2000-2001” – Topic of air

Topics have evolved over the last 10 years. What was important then may not be now. All principal charts and graphs were highlighted in Tom’s document. There



is information in current reports that is not mentioned in annual reports. Backlog of permits are current and important over the last five years. Certain data is history.

On topic of air pollutants criteria, there is much more statistical information online than before. Over the last 10 years, they have started managing themselves. (Who?) We as a commission can look at how public would review the reports. We have other information that could replicate information. Much of the information should still be considered.

In the annual meeting, there was discussion of publishing information on the site section by section upon completion. Things that are not updated needed to be stated.

No evaluation of discussions was reviewed. As we find holes we can request information from the divisions.

Did not include hazardous waste under topic of waste management. This will be included. Reference was made in the handout.

Mention was made of a letter from Tom Fitzgerald regarding the federal and regional priorities August 24th meeting. Also, a letter to Bruce Scott from the Regional administrator.

Dr. Holmes mentioned that EPA figurehead Gwen Keyes-Fleming will return to KSU in October. She is EPA Region 4 Administrator.

Herman mentioned that next annual meeting dates of June 21 and 22, 2012 are set for same week as the International Air and Waste meeting, which is a conflict for him. Annual meeting dates will therefore be revisited among commissioners.

Next meeting November 10th.

Motion to adjourn – 8:42. Holmes motion, Tom 2nd.