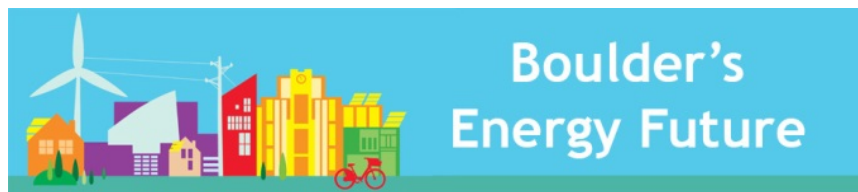


Is Boulder's Muni Dream Dying?

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Lawyers have an old saying: “If the law is with you, pound on the law. If the facts are with you, pound on the facts. If neither the law nor the facts are with you, pound on the table.”

Regarding its desire to create a municipal electric utility, lately the City of Boulder has been pounding on the table a lot. Each time its quest hits a bump in the road, or an outright roadblock, city officials have reiterated why Boulder, a city of about 100,000, is trying to [municipalize](#).



Credit: City of Boulder

As I see it, what started out a decade ago as a desire to boot incumbent provider Xcel Energy out of Boulder has, in recent years, successively morphed into B) decarbonizing its electricity, then C) exercising local control over the city's energy mix, and then D) nurturing the growth distributed energy resources (DERs) like community solar gardens.

None of those reasons are incompatible with the issue of local control that public power utilities, public utility districts and electric cooperatives share. You could say all of these reasons are different sides of the same coin.

But now, a new rationale has materialized: Following [several adverse rulings](#) from the Colorado Public Utilities Commission, this summer Boulder started trying to [negotiate a deal](#) with Xcel Energy to drop its municipalization bid in exchange for certain considerations, which have been kept confidential . However, the city is still

keeping its regulatory option alive at the PUC. Thus, it continues to follow a [two-track](#) strategy.

So rationale E essentially comes down to this: moving the goalposts. Jonathan Koehn, the city's regional sustainability director, told the Boulder *Daily Camera* this in late July:

A win, Koehn continued, will have to include big-picture concessions from Xcel that push the company to adopt, on some level, some of the thinking that Boulder would like to put into policy itself, if it had the permission.

"If we can find a way to work with a company that ultimately has a bigger benefit for more customers and more citizens of Colorado in terms of addressing the social and environmental and health impacts of fossil units, that benefits everybody," Koehn said.

"This isn't just about Boulder; this is about moving more aggressively. That's precisely why we're at the negotiating table now."



Credit: City of Boulder

Pounding the table and moving the goalposts are exactly the kinds of things I would recommend if I were providing PR counsel to Boulder. I'm not, though in the interest

of full disclosure I should say I did help the city relaunch a version of its “utility of the future” [website](#) several years ago.

And I have a ton of professional respect for Koehn, his boss Heather Bailey, and all the staff, consultants and lawyers that have worked so hard for so long on the city’s municipalization efforts. They have done their homework and not been shy about taking on a bigger, better-funded opponent, Xcel Energy.



Credit: City of Boulder

Here’s what Heather Bailey, executive director of Boulder’s energy strategy and electric utility development, said in a statement to me:

“Throughout the past ten months, we’ve been making great progress on municipalization—albeit a little behind the scenes. Since the PUC’s ruling in December, we’ve been hard at work developing our supplemental application; one that will comply with the PUC’s guidance while maintaining the same reliability and safety for all customers. We’re putting the finishing touches on the application and will file it soon.”

“We’ve always known that municipalization would not happen overnight, and we remain confident that it is a viable path to meeting our climate and clean electricity goals. That said, we know we owe it to our community to consider all options, which is why we’ve recently gone back to the negotiating table with Xcel. We plan to continue on these parallel paths for as long as it takes to ensure that one way or another, we can realize our vision for the utility of the future: clean energy, local control and economic opportunity.”

Within the electric industry, Boulder’s municipalization efforts have been widely followed, mainly because successful municipalizations are rare. One of the last successful efforts took place in Winter Park, Florida, in 2003. One reason that effort succeeded was that the shareholder-owned utility that served Winter Park at that

time had long under-invested in its infrastructure. Electric reliability there was awful. So the municipalization campaign said, in essence, “vote with us and you won’t have to reset your VCR timers every week.” It worked.

But Boulder faced a different set of facts as it sought to municipalize. Incumbent utility Xcel Energy has been improving electric reliability in Boulder for several years. So municipalizing to improve reliability was not a viable rallying cry for Boulder. And municipalizing to lower your monthly electric bill isn’t credible until Boulder knows what it will pay for Xcel Energy’s stranded assets.

The stranded cost tab could scotch the municipalization bid. Boulderites years ago capped what the city could spend to municipalize its electric system. So far, there’s been no public disclosure about how Xcel Energy, or Boulder, or a third party, values the poles, wires and transformers the city would need to acquire in order to become a locally owned utility. Set high enough, and endorsed by a court or the Colorado PUC, the stranded assets tab could far exceed Boulder’s financial wherewithal.

The transformers have been a sticking point that has caused Boulder to stretch and bend in ways it probably never considered. One of Xcel Energy’s transformers serves customers in and out of Boulder. In its municipalization plan, Boulder planned to annex that transformer. But the Colorado PUC said that wasn’t allowed, as Xcel Energy needed it to serve customers outside Boulder.

That triggered another issue, annexation, which has turned out to be pretty controversial. Boulder wants to annex certain parcels of land outside the city limits to gain access to the infrastructure serving customers in those areas. That’s another way Boulder has been trying to move the goalposts: increase the city boundaries so that its municipalization efforts now include critical infrastructure that, from an engineering perspective, is necessary to serve that load.

All in all, very Boulderesque: intense, a little crunchy, a little flaky, and absolutely unique.

Sometimes pounding on the table and moving the goalposts can work. I have seen it used to snatch victory from the jaws of defeat. . But I don’t think it will happen here.