

2. What would retail electricity competition mean for Colorado?

Retail competition means there is some level of consumer choice of electricity provider, where electricity sellers compete for customers based on cost and energy source. Retail choice may be available to individual customers or only at the community level or both. It can be "opt-in" or "opt-out." Retail choice takes different forms in different states; examples are given in Section 3.

Retail choice would mainly affect customers who live in IOU territory. In monopoly states like Colorado, IOUs own generation (power plants) as well as transmission and distribution ("poles and wires"). In **most** non-monopoly states that have retail competition (called "**restructured**" states), IOUs have divested (sold) their generation assets to either a subsidiary or a completely independent company to ensure fair retail competition.

Co-ops and municipal utilities are generally exempt from retail competition because the co-op or municipal utility itself is the retail electricity provider. Their choice of electricity source was made when their Board or Council signed a contract for provision of wholesale power (or they funded the production of their own power). Texas is an exception that allows co-ops and municipal utilities to "opt-in" to the retail market.

Retail choice is a characteristic of restructured (or "deregulated") states that have "**unbundled**" IOUs into a separate electricity generation company and an electricity transmission and distribution ("wires") company. The transmission and distribution wires remain so-called "natural monopolies," but consumers purchase the electricity itself from their choice of competing power producers or third-party power marketers. Unbundled IOUs still own their transmission lines and operate and maintain their distribution network, and they are paid regulated rates by any electricity supplier who sends electricity across their wires to customers.

Some states have wholesale competition but not retail competition, such as states in the Southwest Power Pool, which is a "**Regional Transmission Organization (RTO)**" (see [RTO map](#)). In these states, there are competitive wholesale markets where utilities purchase bulk power from power plants based on the lowest prices bid into the market. But at the retail level, customers are still served by vertically integrated monopoly IOUs similar to Colorado. Almost all states that have retail choice also belong to an RTO with competitive wholesale markets, but the reverse is not true. Establishing competitive wholesale markets is a first step on the path to retail competition. Colorado is currently discussing [joining the Southwest Power Pool](#).



[RTO map](#)

3. How can electricity choice be increased in Colorado?

As stated earlier, retail choice mainly concerns IOU customers, but there are also some options for co-ops and municipal utilities to increase their electricity choice.

a. IOUs: *Retail choice requires legislation that eliminates electricity monopolies.*

This is [what Nevada began](#) at the ballot box in 2016, when a 72% majority voted to eliminate energy monopolies and establish a competitive retail electricity market. There are 21 states or portions of states that have some form of consumer choice of electricity provider. The details of each state's retail market is beyond the scope of this document, but here are a few examples:

- **Illinois** has a range of retail choice options. Individual consumers or businesses can choose from competing electricity providers that offer one- to two-year contracts. Communities or other jurisdictions can aggregate their electricity demand to get better deals, and individuals can opt-out of the community's choice and select a different supplier or the default IOU in their area if they wish. [\[our Illinois writeup\]](#) [\[All about Illinois community aggregation programs\]](#)
- **Texas** has a retail market for individuals who live in IOU territory (see the [Power to Choose](#) website). However, Texas has not implemented [Community Choice Aggregation](#) like Illinois has (see [CCA states](#)). Co-ops and municipal utilities are exempted from retail choice, but they do have the freedom to opt in. [\[our Texas writeup\]](#)

- **California** began implementing retail choice along with Texas but partially reversed direction after the Enron market manipulation scandal that cost Californians billions of dollars ([Forbes article](#)). California is a leader in enabling local renewable energy and [distributed energy resources](#), and they are now moving forward on widespread adoption of Community Choice Aggregation. [[Retail choice article](#)] [[PUC whitepaper](#)]
- **New York** is working on an ambitious and forward-looking overhaul of their retail market structure as part of their Reforming the Energy Vision (REV) proceeding. [[Description of REV](#)] [[Status of REV](#)]

Colorado is in an excellent position to create new competitive electricity markets and consumer choice from the ground up. Colorado can draw upon lessons learned from the restructured states that are in the process of updating their markets that were originally designed during the "old energy era." **Colorado can transition directly from a monopoly state to a forward-looking competitive state.**

Section 4 lists the key characteristics of successful restructuring programs in states where vertically integrated monopoly IOUs have been unbundled and retail choice has been established.

b. Co-ops: *Ways to increase local control of energy sources:*

- **Use PURPA to develop local energy.** The Public Utility Regulatory Policies Act of 1978 ([PURPA](#)) was an early step toward breaking utility monopoly control over electricity. As a response to the 1973 energy crisis, PURPA required utilities to purchase electricity from any small power producer that can provide power at a price equal to or slightly above the utility's avoided cost for electricity. The Delta-Montrose Electric Authority (DMEA) co-op challenged Tri-State's 5% cap on locally produced energy, with the argument that PURPA trumps their "all requirements" contract with Tri-State. The Federal Energy Regulatory Commission (FERC) agreed, allowing DMEA to procure power from Independent Power Producers through PURPA. This ruling allows all 905 electric co-ops and 830 municipal electric utilities in the nation to procure cost-competitive local power through PURPA. [Source: [RMI](#)] [Also see: [Colorado Independent](#) | [DMEA](#) | [Public Power Daily](#)]
- **Buy out the contract.** The Kit Carson co-op terminated their contract with Tri-State by negotiated agreement, which involved paying Tri-State a \$37 million exit fee. The co-op then entered into a 10-year Power Purchase Agreement with Guzman Energy for a fixed price (Tri-State can change their prices). The new contract also gives Kit Carson the freedom to develop local renewable energy. [[Taos News](#)]
- **Elect new Board members and fight harder.** The La Plata Electric Association (LPEA) co-op in southwest Colorado had competitive races for open Board seats, and the campaign largely focused on increasing renewable energy. The LPEA Board voted to approach Tri-State about increasing the cap on local renewable energy production to 10%. [[Article on 10% cap](#)] [[Article on election](#)]
- **Retail Choice Legislation.** Co-ops are generally exempted from state retail restructuring legislation because they are democratic institutions that can change their rates and rules whenever they want and voters can elect new Board members if they want to change their governance. If Colorado adopted retail choice for IOU territory, choice could possibly be extended to co-ops on an opt-in basis [as Texas did](#).

c. Municipal utilities: *Similar to co-ops, but different.*

Each municipal utility approaches electricity provision differently, so it's difficult to make general statements. Not all municipal utilities are under decades-long contracts, and some produce much of their own power. As with co-ops, they are democratic institutions and citizens can initiate change by voting for new City Council members or Board members who can change the rules. As with co-ops, the FERC's PURPA ruling allows municipal utilities to bring on cost-competitive local renewable energy.

4. Key characteristics of successful state retail restructuring programs.

The following excerpt is from the [Electric History Restructuring Whitepaper](#) from NESCOE Resources, a non-profit Regional State Committee appointed by the Governors of six New England states.

Available online: <http://nescoe.com/resource-center/restructuring-dec2015/> [or [Download PDF](#)]

From: **Electric Restructuring in New England – A Look Back** (Dec 2015)

Although the specific details of the restructuring plans vary by each state and by affected utilities within a state, the elements of retail restructuring plans adopted across the country, including New England, are broadly similar. They generally included:

- **Divestiture or structural separation of all or a significant portion of the generation fleet** held by the formerly vertically integrated electric utility, either as mandated by law or a result of negotiations as part of an overall settlement agreement. The remaining franchise utility would continue to provide delivery service of power to end-use customers as a regulated local transmission and distribution (T&D) company, also referred to colloquially as “the pipes and wires” company.
 - **Proceeds from the sale or transfer of divested generation assets were typically put toward offsetting the size of the transition charge**, also known as “stranded costs” embedded in the utility’s rate base; the stranded cost figure represented the amount of regulator-approved but ultimately uneconomic investments in generation, regulatory assets, and above-market PPAs for QFs that were still being recovered from customers in rates prior to restructuring.
 - **A “provider of last resort” (POLR), “default service,” or “standard offer” provision**, in essence to supply power generation to customers who choose not to migrate to a competitive offer, or who were economically unattractive to competitors and therefore unable to secure alternative supply service.
 - **Multi-year rate freezes or mandated rate decreases in the first years of restructuring** to provide immediate savings to consumers or, at a minimum, to avoid unexpected rate increases for an initial period.
 - **Consumer protections in the form of competitive supplier rules** and statewide efforts to educate consumers on their option to choose a competitive supplier.
 - **Unbundling of the bills** so that consumers could clearly see and better understand the disaggregated charges as separate line items that comprised their total electricity charge, which typically included distribution, transmission, system benefits (such as energy efficiency charges), stranded cost or transition charges, and the now-competitive generation component. In many states, competitive suppliers were given the option to have their generation charges appear on the distribution utility’s bill so that customers continued to receive a single monthly bill, often as a means to reduce potential confusion among consumers.
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