

HB-1064, "PUC Study of Community Choice Energy"

Addressing questions expressed during the Jan. 23 E&E committee hearing

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line numbers and bill language refer to the "preamended" version of the bill:
https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1064eee_01.pdf

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1. What is the impact of CCE on low-income ratepayers?

While consumer protections in general are considered as one of the topics in the PUC informational docket (page 11 line 7), the following topic was added in response to Energy Outreach Colorado to address this question more specifically (page 13 line 12):

(XIX) THE IMPACT OF CCE ON LOW-INCOME CUSTOMERS, INCLUDING THE AVAILABILITY OF LOW-INCOME PROGRAMS OFFERED THROUGH THE INVESTOR-OWNED ELECTRIC UTILITY TO CCE CUSTOMERS AND THE ABILITY OF CCE AUTHORITIES TO ESTABLISH ADDITIONAL PROGRAMS TO ASSIST LOW-INCOME CUSTOMERS;

We already know that CCE cannot harm low-income customers, by design, because it is always an option for customers to opt out and purchase their power from the incumbent utility.

2. Will the CCE informational docket overburden the PUC?

While the PUC does have a lot going on, we are certain that this bill will not overload them based on speaking directly with them. The bill includes 2.0 FTE (4 people for 6 months) to conduct the docket, and this level of resources is adequate because this estimate came directly from PUC staff. Also, much of what is currently on their plate will be wrapped up or well along by the time this new docket would start in September 2020. The amended due date for the final report from the PUC to the legislature is June 1, 2021.

3. Will CCE interfere with reaching state energy and emissions reduction goals?

We believe that CCE has the potential to accelerate reaching state energy and emissions reduction goals, in part because the original reason for considering CCE is to address the needs of many Colorado communities that want to move faster than state or utility timelines, including the 12 "Ready for 100" cities and the 32 "Colorado Communities for Climate Action" (CC4CA). Furthermore, these energy goals are in state statute and are mandatory, not optional, so they must be met regardless of CCE or other factors. However, in response to concerns expressed by the Colorado Energy Office, Western Resource Advocates and others, the following additional topic was added to the PUC docket (page 13 line 4):

(XVII) THE IMPACT OF ALLOWING CCE IN COLORADO ON THE ABILITY OF COLORADO TO REACH ITS CLEAN ENERGY AND GREENHOUSE GAS REDUCTION GOALS AND WHAT LEGISLATIVE AND REGULATORY REQUIREMENTS FOR CCE WOULD BE NEEDED TO FACILITATE REACHING THOSE GOALS;

If CCE-enabling legislation is debated in the future, we and many others would advocate that CCE authorities are required to meet or exceed all renewable energy and emissions reduction requirements that apply to investor-owned utilities.

4. Is the study a burden on the Fixed Utility Fund?

The Fixed Utility Fund is a 0.25% charge on utility bills that funds the PUC and its activities, including the ongoing dockets that were required by SB19-236. The Fiscal Analyst has determined that the PUC docket and the financial feasibility study are appropriate uses of this fund. The balance in the fund is projected to be \$1.6M at the end of this fiscal year, whereas this bill will require approximately \$0.7M. The only additional net demand on the Fund due to pending legislation that is known at this time is approximately \$0.1M. This is a one-time charge, not a sustained draw from the Fund. This bill does not require an appropriation from the General Fund.

5. What would CCE mean for coal plants and coal-fired electricity?

CCE does not specify energy sources. CCE would only open up an option for communities to choose their wholesale electricity suppliers. However, if CCE is enabled in the future, CCE authorities would almost certainly be subject to the same state-level energy and emissions related requirements as investor-owned utilities, so the transition to cleaner sources of energy would likely continue just as with the status quo. The transition might be faster than the status quo if communities choose cleaner energy sources. Furthermore, it is very likely that aspects of a Just Transition and many other things that apply to IOUs, would apply to CCEs as well.

6. Opt-out rates in some CCE states are high (NREL paper).

It is important to understand that the NREL paper looks broadly at CCE across the country, and all but one of the current CCE states are Eastern deregulated (or "retail choice") states, where individual customers can shop for their own electricity supplier from among dozens or hundreds of retail competitors. However, Colorado is a regulated monopoly state, and comparing the two is like apples and oranges. Therefore, much of the NREL paper does not apply to HB-1064. The bill repeatedly clarifies that the study concerns the "wholesale, opt-out model of CCE" (meaning the California model). Opt out rates are higher in the East, and there are other problems as well

that relate to being a retail choice state, but this is not relevant to the CCE Study Bill. Opt out rates in California CCEs are typically around 5-10% (so 90-95% participation). These high participation rates are what allow the financiers of new renewable energy development to feel comfortable financing renewable energy projects for CCEs or on behalf of CCEs, because the revenue stream is seen as stable and therefore the risk is low. This also allows communities to negotiate lower-cost, long-term contracts with power producers that would not be possible in the retail choice states due to the high "customer churn" rates.

7. Is automatically enrolling customers in CCE by default a problem?

The choice by a community to form a CCE is made by City Council, and it may or may not require a vote of the people. The "by ordinance or by vote" question is part of the PUC docket (page 11 line 21). Either way, it is a transparent public process that would be widely discussed and debated and covered by the media as much as any significant decision by a city council, so it should not come as a surprise when the line item on a customer's utility bill for the electricity supply now reflects the name of the CCE rather than the name of the utility. The incumbent utility still delivers the electricity and manages the power lines and customer service and customer billing - only the vendor of the electricity itself changes. However, anyone who wants to still purchase their electricity from the utility, for any reason, can always do so because CCE is an opt out program - the customer simply needs to call a number or click on a website to change back to the utility's power supply. CCE-enabling legislation under consideration in Oregon provides specific guidance to new CCE authorities about the timing, frequency and content of direct notifications to ratepayers of the upcoming change. Similar legislative language could be used in Colorado if CCE-enabling legislation is introduced in the future.

8. Why not also study other options for addressing community energy goals?

I have no objection whatsoever to considering other options in parallel with CCE, but am very opposed to cramming all possible options into my bill, for several reasons:

- CCE is complicated and deserves to be considered in a focused way by the studies in the bill that are specific to CCE.
- Studying CCE does not preclude any other energy legislation from advancing in parallel. Options for giving communities more choice and control over their electricity supply are not mutually exclusive.
- The idea of Community-Utility Partnerships was put forth in HB18-1428, which did not pass. If an interested legislator wishes to improve and reintroduce that idea, nothing prevents that. I would recommend getting stakeholder input to improve that bill, but it does not belong shoehorned into my bill.
- When powerful entities like monopoly utilities have strong vested interests in maintaining the status quo, there is a danger that a broad mandate such as "study all the options" is a recipe for delay and/or hijacking the process, as opposed to more focused investigations that lead to more objective, evidence-based results.

In summary, focused but separate investigations of other community options in appropriate venues are entirely reasonable.

9. How are CCE authorities governed?

There are two types of CCEs: 1) individual city CCE authorities, and 2) “Joint Powers Authorities” that consist of multiple cities and/or counties that combine their purchasing power and program administration. With individual cities, the board is generally the City Council, and therefore is just as transparent as city councils, including public decision-making and sunshine laws. With JPAs, the board has representatives from each member city or county, and being a public agency has the same state transparency requirements as city councils. Both models are substantially more transparent and accessible to ratepayers than investor-owned utility decision-making processes.

10. How can we ensure the objectivity of the feasibility study?

It is essential that the feasibility study be seen as independent, objective and unbiased. To that end, the following amended language provides direction to the PUC in its consultant selection process (page 6 line 17):

(I) SELECT, THROUGH A TRANSPARENT AND COMPETITIVE SOLICITATION OVERSEEN DIRECTLY BY THE COMMISSIONERS AND ISSUED ON OR BEFORE SEPTEMBER 1, 2020, AN INDEPENDENT AND QUALIFIED AGENT TO PERFORM THE STUDY, USING SELECTION CRITERIA THAT ENSURE THE AGENT DOES NOT CARRY BIASES THAT ARE ESPECIALLY FAVORABLE OR UNFAVORABLE TO CCE OR TO INVESTOR-OWNED UTILITIES;

11. Why shouldn't the communities that want CCE pay for the study?

While this seems like a reasonable proposition on the surface, both the feasibility study and the PUC docket will investigate questions of importance and potential benefit to every IOU ratepayer in the state. It is impossible to know in advance which communities would pursue forming a CCE authority if enabling legislation were passed, so it would not be fair to require a subset of ratepayers to fund the studies just because they live in communities that might be among the most likely or earliest to adopt CCE. Furthermore, studies conducted or overseen by the PUC will have greater transparency, and therefore more credibility, than studies funded by one or several communities which might be perceived as biased.

12. Would CCE create additional safety risks for linemen?

Not at all. First, CCE pertains only to the procurement of electricity, not to the operation of the transmission and distribution grids, which remain the utility's responsibility. CCE authorities do not have, nor desire, the expertise to operate the grid. Second, during the hearing, the electrical workers union expressed concern about electricity flowing back into the grid from solar and other distributed energy resources during an outage. While CCE authorities may or may not enable more local, distributed resources than an IOU would, all such resources have to abide by all relevant safety codes and standards, and the resources are interconnected under the direction of the utility, not the CCE authority. As an example, one such standard from the Institute of Electrical and Electronics Engineers (a standard-setting body for the electricity industry) requires that the control systems that form the interface between a renewable resource and the grid must terminate power flow from the resource within milliseconds of a power outage. Again, CCEs are only responsible for procuring the wholesale power supply, not for interconnection with the utility's grid infrastructure.