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HB21-1269 PUC Study Of Community Choice Energy

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
<p>Paul Culnan For Self</p>	<p>I support the passage of HB21-1269 PUC Study of Community Choice Energy. I am very much in favor of competition and choice in the electric power market. Competition brings lower prices and a better product for consumers, and the possibility of more environmentally friendly electricity.</p> <p>I wish this was an actual CCE bill instead of a study bill, but I guess this is just the wheels of government turning slowly. We are in a climate emergency worldwide and here along the front range we are also in an air quality emergency. Fossil fuels are the major contributor to both emergencies. We must stop burning fossil fuels as quickly as possible. Fortunately, developing and using renewable energy adds jobs, cleans the air, improves health in our frontline communities, and slows the onslaught of climate change.</p> <p>Thank you for all you do to support the environment, health and economy of Colorado.</p>
<p>Megan Wilder For Self</p>	<p>Please support HB21-1269: PUC Study of Community Choice Energy (CCE). Energy companies must accelerate their transition away from fossil fuels and towards renewables. Community Choice would allow us to get energy through a more competitive wholesale market. We could get greener power and save money. Local solar and wind projects would benefit. Please allow these studies on CCE to proceed so we can explore this innovative approach.</p>
<p>Julie Zahniser For Self</p>	<p>Honorable Representatives and members of Colorado House Energy and Environment Committee,</p> <p>I strongly support passage of HB21-1269, "PUC Study of Community Choice Energy".</p> <p>Even though I am an owner in two solar gardens and have invested in many forms of energy efficiency for my home, I was without power for four days during the 2013 Boulder flood. Through that experience, and after watching communities hit by severe natural disasters all across the country over the past decade, I have learned first-hand that we need to build greater local energy control and resilience. Coloradans deserve the opportunity to at least study local control-focused energy delivery options that are allowed in other states.</p> <p>HB21-1269 is a forward-thinking bill to gather information about various local energy delivery systems that CO communities cannot do on their own.</p>

	<p>I am convinced that the information resulting from this study bill will help CO formulate an improved plan to achieve our essential climate and economic goals.</p> <p>HB21-1269 will allow due consideration of the rate and innovation impacts of competition in electricity generation, on accountability for our electricity costs, on ways to accelerate renewable energy adoption, and on the development of more local resiliency tools.</p> <p>Thank you for your hard work and for your consideration of HB21-1269.</p> <p>Respectfully, Julie Zahniser Boulder, CO 80305</p>
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April 29, 2021

Members of the House Committee on Energy and Environment
Colorado State Capitol
Denver, CO 80203

Re: HB21-1269 – Community Choice Energy Study

Dear Members of the Committee,

I am writing today to express my support for HB21-1269. My husband and I ranch in Gunnison County, and I am actively involved with a number of water organizations on the West Slope. I chair the Gunnison Basin Roundtable, and serve as a board member for the Colorado River Water Conservation District. I am a former state legislator and currently represent several West Slope water districts as their lobbyist when the General Assembly is in session.

So why am I expressing support for this important piece of legislation? Because in addition to the energy management issues that will be examined if the bill passes, there is a water nexus that I would like to bring to your attention. Irrigation and municipal water providers operate and perform the critical service of acquiring and delivering reliable and safe drinking and irrigation water to residential and agricultural customers. These entities generate most of their income by charging fees for the water they sell. The fees must cover the costs of operating and maintaining systems that can consist of miles of delivery infrastructure, tunnels, reservoirs, pump stations, and treatment plants – not to mention the costs of acquiring and developing the water.

Many water suppliers have systems that include hydropower facilities to enhance their revenue streams and provide power for moving water to their end users. Many other systems have been built with the notion of some day installing hydro capacity if the economics of transmission and power sales can be worked out. The hydropower producers that I am familiar with have historically contracted with the investor-owned utility in their area to sell their excess power. The revenues that are generated are an important source of supplemental income for these entities. If the concept of community choice energy were to move forward, that would improve the opportunities for wholesale energy generators when they are in the market for buyers.

As mentioned before, the entities I am familiar with have historically been selling their power to the local investor owned utility under a “negotiated” power purchase agreement (when there is only one buyer, negotiating price is not a two-way exercise). Several entities have agreements that are coming to the end of their term and have showed interest in obtaining other buyers. One example is the Grand Valley Water Users Association and Orchard Mesa Irrigation District. They are pursuing construction of a replacement hydropower generator and have decided to sell the power to Holy Cross Energy as opposed to their previous buyer. Another hydropower producer, Redlands Water and Power Co., will also be renegotiating their power purchase agreement in the near future. To date they have been limited to selling to the investor- owned utility because they don’t own any transmission facilities. In their case, selling to another buyer would require that buyer to pay transmission wheeling charges, which has resulted in unfavorable economics for the alternative buyer. (hence the need for SB21-072).

Improving the economics of hydropower generation by creating more opportunities for potential buyers would incentivize the increased construction and use of this important source of electricity generation. In addition, hydropower revenues are a great way to help water districts cover their costs without pushing all of those expenses forward to their limited rate payer base. Hydro can complement other renewable energy sources because it is not dependent on solar or wind conditions and doesn't require storage.

HB21-1269 would allow for a comprehensive analysis of the pro's and con's of moving toward CCE. As an advocate for water providers – measures that can help them meet the needs of their customers and keep them financially viable are worth taking a look at in my opinion. Thank you very much for your consideration.

Regards,

Kathleen Curry

Kathleen Curry
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HB21-1269: Realizing a freely competitive energy marketplace

There is much to say, and little time. I appreciate your full calendars this late in the session. Study bill, HB21-1269 could unlock great benefit and deserves our support. This document has been submitted as written testimony to the E&E Committee.

The following is a digest of research on Community Choice that I have done on your behalf. The case I make is that a freely competitive energy marketplace would be a benefit to the ratepaying public. I make the case that as a study bill, HB21-1269 (PUC Study of Community Choice Energy) would reveal the public benefit being discovered around the country. Should you appreciate the facts, I have provided footnotes to the actual sources of information. Rather than paraphrase, I have curated available information verbatim and done so in *italics*.

The case I make is that freeing the energy market makes sense given the commodification of cheap and abundant renewable energy and that Colorado owes it to itself to do discovery. In the research that follows, I have left the original references to Community Choice Aggregation (CCA) intact which is what Community Choice Energy (CCE) represents.

Competition in Utilities

You will be hearing much about the pros and cons of free choice. My focus is on the potential benefits that a freer competitive market could provide.

Under the traditional “structured” model, electricity services (i.e., generation, transmission, and distribution to consumers) were bundled together and controlled by private investor-owned utilities (IOUs). Under the structured system, IOUs received a natural monopoly over the electricity market in exchange for providing reliable service and reasonable rates. However, this monopoly was disrupted in 1996 when the Federal Energy Regulatory Commission (FERC) issued Order No. 888, allowing for the “functional unbundling” of wholesale generation from transmission services and requiring open access for unbundled retail transmissions. In essence, the order allowed for the competitive wholesale trading of electricity. Today, seventeen states and the District of Columbia follow a “restructured” model, whereby generation and transmission are unbundled to allow for consumer choice. Of those seventeen states, eight have passed CCA-enabling legislation to allow CCAs to purchase electricity on the wholesale market. For example, California enabled CCAs in 2002 with the passage of the Community Choice Aggregation Bill (AB 117), which authorizes customers to aggregate their electrical loads with a community choice aggregator.¹

Competition:

Americans love to compete. More Americans strongly agreed than any other surveyed country’s residents that they like situations where they compete. Praised in various contexts, competition is the backbone of U.S. economic policy. The U.S. Supreme Court observed, ‘The heart of our national economic

¹ Community Choice Aggregation in California <https://www.law.georgetown.edu/environmental-law-review/blog/power-to-the-people-community-choice-aggregation-in-california/>

policy long has been faith in the value of competition.’ The belief in competition is not only embodied in the antitrust laws. Every US executive agency, for example, is legally required to have an advocate for competition.²

The virtues of competition

Among competition’s many virtues, the Supreme Court observed, are its being ‘the best method of allocating resources in a free market’ and ‘that all elements of a bargain-quality, service, safety, and durability-and not just the immediate cost, are favorably affected by the free opportunity to select among alternative offers’. Competition can yield:

- *lower costs and prices for goods and services,*
- *better quality,*
- *more choices and variety,*
- *more innovation,*
- *greater efficiency and productivity,*
- *economic development and growth,*
- *greater wealth equality,*
- *a stronger democracy by dispersing economic power, and*
- *greater wellbeing by promoting individual initiative, liberty, and free association.*

Competition’s virtues are so ingrained within the antitrust community that competition often takes a religious quality. The Ordoliberal, Austrian, Chicago, post-Chicago, Harvard, and Populist schools, for example, can disagree over how competition plays out in markets, the proper antitrust goals, and the legal standards to effectuate the goals. But they unabashedly agree that competition itself is good. Antitrust policies and enforcement priorities can change with incoming administrations. But the DOJ and U.S. Federal Trade Commission (FTC) steadfastly target horizontal restraints and erection of entry barriers via legislation. Competition authorities from around the world may disagree over substantive and procedural issues, but they all advocate competition. Indeed the labels ‘pro-competitive’ and ‘anticompetitive’ are synonymous with socially beneficial and detrimental conduct.

Some policies that ostensibly restrict competition are justified for promoting competition. Intellectual property rights, for example, can restrict competition along some dimensions (such as the use of a trade name). But the belief is that intellectual property and antitrust policies, rather than conflict, complement one another in promoting innovation and competition. Likewise, contractual non-compete clauses are justified for their pro-competitive benefits.

Given their faith in competition’s healing powers, antitrust officials and courts typically distrust complaints about competition. They are rightfully wary when industry groups or other government agencies decry competition as ruinous or destructive. First, consumers can pay more for poorer quality products or services, and have fewer choices. Second, governmental or private restraints can raise exit costs and inhibit innovation. Third, economic regulation can attract special interest groups to lobby for regulations that benefit them to society’s detriment. Competitors, challenged by new rivals or new forms of competition, may turn to regulators for help. Competitors may ask governmental agencies under the

² Is competition always good? <https://academic.oup.com/antitrust/article/1/1/162/274807>

guise of consumer protection to prohibit or restrict certain pro-competitive activity, such as discounts to their clients. They may enlist the government to increase trade barriers or for other protectionist measures. Such ‘rent-seeking’ behavior benefits lobbyists and lawyers, but can substantially waste scarce resources. Finally, impeding competition can cause significant anti-democratic outcomes, like concentrated economic and political power, political instability, and corruption.

Accordingly, antitrust officials are justly suspicious when regulatory bodies decide that a company’s entry would ‘tend to a destructive competition in markets already adequately served and would not be in the public interest’. Such decisions are best left to consumers, not regulators.

Utilities, Competition, and the Public Good

And to connect the dots between our regulated monopolistic present with a competitive free-market future manifesting the promise of free choice I offer:

Some of the advantages associated with CCA, according to the U.S. Environmental Protection Agency’s Green Power Partnership (GPP), are a potential reduction in retail electric rates; the capacity to rapidly shift to greener power resources; local control of electricity generation; expanded consumer choices; and the potential to spur local jobs and renewable energy development.³

“Advocates tout benefits such as the ability to more closely align energy decisions with policy objectives and citizen objectives, such as procuring renewable resources and implementing energy efficiency programs,” Lyons told Daily Energy Insider.

In some cases, like-minded communities also could band together to improve scale economies, she said, pointing to Cape Light Compact in Massachusetts — the nation’s first CCA — which represents 21 towns on Cape Cod, Martha’s Vineyard, and Dukes County.

In addition to Massachusetts, CCAs currently are authorized in California, Illinois, Ohio, New Jersey, New York, and Rhode Island, according to GPP, and several other states are considering CCAs.

“CCAs are an attractive option for communities that want more local control over their electricity sources, more green power than is offered by the default utility, and/or lower electricity prices,” says GPP.

GPP also points out several challenges, saying CCA implementation is dependent on enabling state legislation and requires successful navigation of a variety of CCA regulations.

Next Steps

Could we please unanimously support this study bill?

³ Consider pros, cons of choosing community choice aggregation to source local electricity
<https://dailyenergyinsider.com/featured/19691-consider-pros-cons-of-choosing-community-choice-aggregation-to-source-local-electricity/>

Written testimony submitted April 28, 2021 to the House Energy and Environment Committee for its hearing on HB21-1269 scheduled for hearing on April 29, 2021, 1:30pm

I am Emily Tracy, of Cañon City and Breckenridge. More than three years ago I founded Cañon City's Energy Future to work to persuade the City of Cañon City to explore alternative electricity providers to find more affordable power for residents and businesses. Cañon City has been served by Black Hills Energy (BHE) since they acquired Aquila more than 10 years ago. The City's franchise with BHE expired in November 2017. Before pursuing a renewal of the franchise, the City waited to see if the City of Pueblo would successfully take an off-ramp from their franchise with BHE. In May 2020, Pueblo's vote to leave BHE failed, and the City of Cañon City took steps to place a franchise renewal on the November 2020 ballot. The voters of Cañon City voted nearly two to one to not renew the franchise, and the City is in the process of creating an energy advisory committee to explore alternatives.

Cañon City's Energy Future would like the State of Colorado to examine ways to provide more choice for communities regarding their electricity. The wholesale focus of what is proposed in the Community Choice Energy (CCE) study bill might work well in a service territory like that served by Black Hills Energy. BHE sells power to itself which it generates and ultimately sells that power to retail customers at a substantial markup – far higher prices than wholesale power prices on the open market. As the Public Utilities Commission's rate study released February 1, 2021 revealed, BHE's residential rates are 34% higher than the statewide average of residential rates from all providers, and 47% higher than Xcel Energy's residential rates – in a part of the state (south central Colorado) whose median household income is at least 30% lower than the statewide median household income.

In addition to potentially lower power prices, CCE could assist communities that wish to move more rapidly toward renewable energy goals than what state law requires, or their monopoly investor-owned utility (IOU) is achieving. Communities could use their new ability to shop for power to also help achieve their community renewable goals.

Cañon City's Energy Future does not know if Community Choice Energy would solve the most significant problem the community faces in electric power – high costs. But it could loosen the rigid electrical power system (no choice on providers, inability for the average resident or business to address cost, the tremendous political power that existing providers have, and other issues). It could provide more local control and decision making regarding electric power than what current law allows, and it might allow the community to find more affordable power for its residents and businesses. A low-income community like Cañon City cannot consider a near-term move to electric cars and electric houses and commercial buildings until they have the benefit of affordable electricity.

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Board of County Commissioners

Statement in Support of HB 21-1269 (Public Utilities Commission Study of Community Choice Energy)

Boulder County is pleased to offer its strong support for HB 21-1269. This legislation has been under development for many months, and we have appreciated the thorough and lengthy stakeholder work that the bill sponsor – Rep. Hooton – and other advocates have engaged in during that time.

In its [2021 Legislative Agenda](#), our Board of County Commissioners approved the following policy related to this topic:

“Support a comprehensive public process for evaluating retail and whole energy choice options for communities, informed by a broad variety of stakeholders” (pg. 32)

We have reviewed HB 21-1269, and it is very consistent with our adopted policy on this issue. Decarbonizing the state’s electricity portfolio is an important component of meeting overall greenhouse gas reduction goals. At the retail level, policies such as Community Choice Energy (sometimes also referred to as Community Choice Aggregation) have the potential to provide additional choices for consumers to opt for renewable energy electricity sources, while also creating a larger market for those options.

Boulder County supports HB 21-1269, which will study these policies and determine the degree to which they contribute to the state meeting its climate policy goals and provide benefits to ratepayers.

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Matt Jones County Commissioner **Claire Levy** County Commissioner **Marta Loachamin** County Commissioner

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