

Comments on HB19-1037 – 4/18/2019 – Steve Pomerance, Boulder CO

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I have been active in energy issues since the late 1970's. In the 1970's I designed and built solar houses. In 1982 I designed Boulder's solar access ordinance. In 1983 I wrote the bill that led to the establishment of the state Office of Consumer Council. In 1984 I was nominated by Gov. Lamm to the PUC, and turned down by the Senate because I was against new coal plants. In 1986-1997 I served 10 years on the Boulder city council. In 1987 I pushed an evaluation of climate change on Boulder's water supply (an apparent first in the country). In 2006 I promoted the idea of a citizen voted Carbon Tax (passed, first voted on carbon tax in the country). Etc.

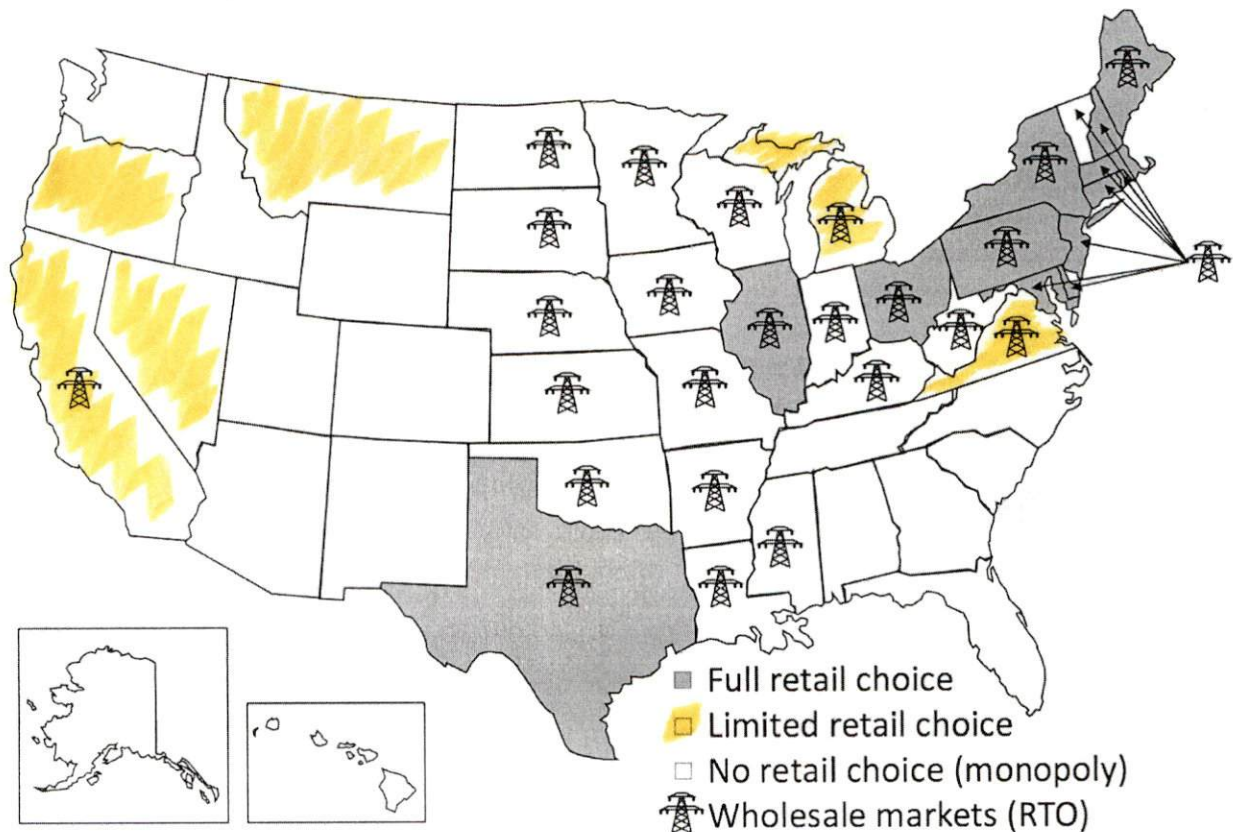
HB19-1037 has many flaws, is not needed, and is more costly than necessary.

- 1) **What has securitization been used for?** Securitization has mostly been used as a way to pay off unused power plants by states that want to escape their monopoly utility structure so they can create competitive/market-based systems. Almost all the states that have "securitized" have gone to retail choice or wholesale markets. (See map, page 3.) But it is not the only way to get there.
- 2) **Why is securitization even being discussed here?** It's because it is so expensive to pay Xcel for the money it invests in its power plants. Currently, Xcel makes about 9.8% on its invested equity, which constitutes about 56% of the total rate base. And Xcel's debt, the rest of the rate base, is also overly expensive because most of its bonds are callable, which are more expensive than fixed term debt. (BTW, Xcel investors made over 15% annual return over the last 5 years.)
- 3) **Why are we paying Xcel so a high rate?** Good question! For regulated monopoly utilities like Xcel, returns are supposed to be related to risk. But Xcel bears little to no risks on its investments, because the PUC has to approve every investment it makes. So the PUC can't then turn around and say it was a mistake. Xcel even got \$29 million for the SmartGridCity project, which it promised would cost the ratepayers nothing, and which was a complete flop. (The history of "regulatory capture" is fascinating – read "Power Struggle" by Rudolph&Ridley.)
- 4) **What is the cost of capital for public utilities?** For example, Nebraska Public Power's bonds recently sold at 2.8%. Boulder's recent utility bond issues have been 3.1% or less. And these are revenue bonds, and not backed up by the government's taxing authority like GO bonds, but are tax exempt. (See page 4.)
- 5) **Are there regulatory risks associated with a properly decommissioned power plant?** There really aren't any, because there are no more "imprudent" decisions that could be made and then criticized post facto. So that portion of the rate base should be paid risk free rates, like Treasury bills.
- 6) **Could the PUC just lower these investor-owned utilities' rate of return to something like these public utilities, after adjusting for tax status?** From my review of the case law, that would be supportable. Then there would be no financial reason to bother with securitization. The incumbent utility could just continue to collect rate base returns until fully paid off. If they wanted the money up front, it could issue its own bonds tied to this revenue stream.
- 7) **Are old coal plants most of what could be securitized?** Not really. The old coal plants that have not had new investments are close to being fully paid off. By far the largest amount of still unpaid-back money was invested in 2005-2010

- in Comanche 3, about \$1.3 billion total of which 2/3 is Xcel's, and in 2010 and thereafter as a result of the Clean Air Clean Jobs Act, another \$400 million. By that point in history, everyone was well aware of climate change, yet in spite of the protests, Xcel persisted in making these carbon-emitting investments. So there is no equitable reason why Xcel should get back 100 cents on every dollar.
- 8) **Who decides if securitization takes place under this bill?** Under this bill, Xcel can trigger securitization whenever it chooses. So it will likely just keep collecting its high return on the rate base. But if there is ever a threat from the state or the Feds, it can just securitize, bail out, and leave the ratepayers holding the bag. IMO, Xcel should take a partial loss on these investments because they were the ones that pushed them, knowing that they were damaging.
 - 9) **Are there other ways to securitize than in this bill?** Yes! Simply create a TABOR-exempt "enterprise fund", just like a municipal water utility. (The state also has "enterprise funds".) Have it issue tax exempt revenue bonds, which are cheaper than anything utilities could issue under this bill, use the revenue to pay off the utilities' investments, and then pay off the bonds with a utility fee just like the bill anticipates. That way the state is in control, and it's cheaper besides.
 - 10) **What about the bill's provisions that allow the utilities to invest in replacement resources?** The bill's language is very opaque (to understate the obvious) but seems to grant the incumbent utility a favored position in terms of bidding for replacement power. There is no good reason to do this. Just put all new resources out to bid and take the best deal. Besides, there's no legitimate way that an incumbent monopoly can be in a fair bidding process against independents – aside from the potential of the incumbent doing cost-shifting to lower its bids, the regulated utility's future costs are unknown, because the rate of return on their rate base may be adjusted up or down, e.g. if there is a bout of inflation.
 - 11) **Is the "non-bypassable" provision fair?** In a word, NO. It puts cities that want to escape from the monopoly utility by exercising their constitutional right to municipalize at unknown risks into the future until they actually have created the municipal utility. Based on Boulder's experience, that can take a decade or more because of all the obstacles thrown in its way. Besides, once they have municipalized, they wouldn't have to pay for these coal plants if they were operating, so why should they have to pay for them when they're decommissioned?
 - 12) **What about the Federal Energy Regulatory Commission's role?** The FERC sets transmission tariffs, and they are legally required to be based on the actual costs of transmission. So trying to use such tariffs to extract money for worker "transition" is not likely to pass muster with the FERC.
 - 13) **Are there TABOR issues with this bill?** The whole notion of using a utility rate rider to pay for worker "transition" is likely to run afoul of TABOR. IMO there is no way such a rider can be considered a "fee for services" because ratepayers are not getting a direct service. So it's a tax, and is likely to end up losing in court.

Given all the above, and the lack of integration between all the energy bills this season, the Legislature should set up an interim committee to come up with comprehensive legislation to address all the issues and opportunities that come with revising our utility structure toward gaining cleaner power, cheaper and faster.

Retail Electricity Choice and Wholesale Markets in the U.S.



Green states – Fully "restructured" (competitive) retail electricity markets, where individuals and businesses can choose their electricity supplier and rate plan from among many competing suppliers.

Yellow states – Limited retail consumer choice of one type or another.

White states – No retail consumer choice (monopoly states like Colorado).

The "flavor" of restructuring differs between states. California has minimal individual retail choice, but it allows communities as a whole to select an alternative electricity supplier rather than their local monopoly utility, known as "Community Choice Aggregation" (CCA). Illinois lets individuals/businesses, as well as communities, choose between competing electricity suppliers, while Texas allows individual choice but not community choice.

The transmission tower symbols show which states (or parts of states) belong to a "Regional Transmission Organization" (see RTO map). An RTO operates the high-voltage transmission network on a regional basis (state-size or larger), rather than each utility controlling the transmission system within its own smaller territory, as in Colorado. RTOs also operate wholesale electricity markets, where a competitive bidding process determines which power plants are the most cost-effective and get to dispatch (sell) their power. Utilities in monopoly states control their own power dispatch, so there are no market forces to sort out which power plants are the least-cost power providers.

For more about RTOs, see our overview of the U.S. electricity system and our wholesale markets in Colorado webpage.

For unfamiliar terms, see our terms and definitions webpage.

Bonds Issue 63968ATF2

63968ATF2

Track this issue

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Nebraska Public Power District Revenue General Series A

CUSIP:	Coupon:	Maturity Date:	Insured?
63968ATF2	3.000%	2030-01-01	NO

Official Statement:	Issuer Details:	History Report:
View Here	View Here	View Here

Trade History

Share Table

Trade Data	Trade Time	Maturity Date	Coupon	Price	Yield	Trade Amount	Trade Type
2019-04-09	1:23pm	2030 January	3.000%	100.518	2.800	\$25,000	Inter-dealer
2019-04-09	1:22pm	2030 January	3.000%	100.518	2.800	\$25,000	Inter-dealer
2019-04-09	1:22pm	2030 January	3.000%	100.518	2.800	\$25,000	Inter-dealer
2019-04-09	1:22pm	2030 January	3.000%	100.518	2.800	\$25,000	Inter-dealer
2019-04-09	1:22pm	2030 January	3.000%	102.025	2.228	\$25,000	Investor bought

Share Table

Boulder's last three bonds in the Utilities enterprises:

The interest rates are "All-in True Interest Cost (TIC)."
 2018 Water and Sewer Bonds (Carter Lake Pipe/Sanitary Trunk Sewer); rate: 3.1%
 2016 Water and Sewer Bonds (Betasso); rate: 2.3%
 2015 Stormwater/Flood Bonds (Wonderland Creek); rate: 3.1%

PRPA April 2016 Bonds sold at 2.19%

Note: All these bonds are for utility system investments, not for "securitization".

Interest rate difference is 0.26% between tax exempt and taxable for 30-year bonds. (from Raymond-James, as of 4/15/19) "The muni yield curve remains positively sloped with the difference between 1 and 30 year muni yields (1 year AAA munis yield 1.51%, **30yr AAA munis yield 2.71%** - that's a difference of 120bps) more than double that of Treasury yields with the same maturities (1 year Treasuries yield 2.43%, **30yr Treasuries yield 2.97%** - that's a difference of 54bps)."