Clean Energy Action
Accelerating the transition to a post-fossil fuel, clean energy economy

Xcel-Denver MOU— An Analysis

March 2018

Summary

The Memorandum of Understanding between the City of Denver and Xcel (Public Service Company of Colorado or PSCo) executed in early March 2018 is primarily a document of lofty statement, but is non-binding and contains no commitments from Xcel to reduce the carbon intensity of their electricity and move to a high level of renewable energy. Rather, the MOU could easily serve to distract the City of Denver and its residents from efforts to decarbonize their electricity and even could be used by Xcel to entice the City of Denver into supporting Xcel's proposals at the Colorado Public Utilities Commission that are very likely not what most Denver residents and businesses would support if they understood them.

Indicators that the MOU is Intended to Serve Xcel's Needs—Not Denver's

While it is, of course, possible that the Xcel-Denver MOU could be used as a framework to lead Denver forward towards its goal of 100% renewable electricity, there are several indicators that the MOU was drafted in a way that is more likely to serve the needs of Xcel Energy than those of the residents and businesses of the City of Denver in their search for cleaner electricity and a more sustainable city. Some of those indicators are discussed below.

1) The MOU is Non-Binding: The MOU is very clear that it is non-binding and doesn't involve any commitments of any kind from Xcel. The language from Section 4.4 of the MOU is copied below.

4.4 *Legal Applicability and Waiver*: The Parties agree that this Memorandum is to memorialize the intent of the Parties regarding the EFC Partnership, but does not create a legal agreement between the Parties. It is agreed by the Parties that nothing in this Memorandum will be deemed or construed as creating a joint venture, trust, partnership, or any other legal relationship between the Parties. This Memorandum is for the benefit of the Parties and does not create third party rights. Nothing in this Memorandum constitutes a waiver of Denver's ordinances, Denver's regulatory jurisdiction or Colorado's utility regulatory jurisdiction.

2) No Date or Urgency for Achieving 100% Renewable Energy: While the MOU briefly acknowledges that Denver has a desire of achieving 100% renewable energy, there is no date or expression of urgency in this statement. Combined with no further mention of the 100% renewable energy goal and the lack of commitments by Xcel, the MOU doesn't do much to advance a 100% renewable goal for Denver. Below is the language on 100% renewable energy from Part B of the Background section of the MOU:

B. Denver has various clean energy, economic development, public works and innovation goals and desires, including 100% renewable energy and 80% reduction in greenhouse gas emissions, which have been developed in collaboration with the community.

3) Attachment 1 Focuses Primarily on the Customer Side of the Meter—Not Xcel's: Attachment 1 is described as "initial ideas" for Denver and Xcel to consider for development of a "Work Plan." While it is possible that future developments could modify the elements of the Work Plan, the list of initial ideas focuses primarily on projects on the customer side of the meter. While these are worthy projects, they could keep citizens distracted from advocating for decisions that reduce reliance on coal and natural gas and increase reliance on wind, solar and storage projects on Xcel's side of the meter.[1]

4) The MOU Does Not Provide Any Specific Role for Citizens: The MOU does not provide any specific role for citizens. This has the effect of blunting the momentum that is created among residents and business for 100% renewable

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[1] In addition, efforts made in support of efficiency, vehicle electrification and transitioning away from natural gas, will likely have the effect of building Xcel's load and profits (since Xcel receives incentives for their efficiency efforts). Again, improving efficiency and decarbonizing transportation and space and water heating are worthwhile objectives, but they will not, in themselves, lead to the rapid transition to wind, solar and storage on Xcel's side of the meter that most Colorado residents support.

electricity. In addition, the Mayor and staff of the City and County of Denver are typically very busy and not able to learn the details of utility regulation and PUC proceedings. This makes them vulnerable to manipulation by Xcel representatives who can encourage them to "just leave it to the experts" at Xcel. Keeping citizens explicitly involved can help counteract Xcel's information advantage.

5) The MOU Repeatedly References the Public Utilities Commission ("PUC"): While it is true that Xcel is regulated by the Public Utilities Commission ("PUC"), the repeated references to the PUC provide a "fail safe" mechanism for Xcel since Xcel knows very well how **not** to make things happen at the PUC; if Denver asks for too much, Xcel can just say they can't do it because the PUC won't let them—once again thwarting the efforts of Denver residents and businesses to have more renewable electricity serving their City.

6) Specific Mention of the "Colorado Energy Plan:" Section 3.8 of the MOU specifically mentions that the Denver-Xcel partnership "will support" Xcel Energy's proposed Colorado Energy Plan or CEP. While Xcel's proposed Colorado Energy Plan may seem enticing on the surface, there are several provisions in the CEP (as discussed below) that most Denver residents and businesses would not be likely to support if they understood them.

Background on Xcel's "Colorado Energy Plan" Proposal

Below is a description of the Colorado Energy Plan, or "CEP," from page 6 of Public Service Company of Colorado's[2] 2017 10-K,[3]

In August 2017, PSCo and various other stakeholders filed a stipulation agreement proposing the CEP, an alternative plan that increases the amount of new resources sought under the ERP. The CEP would increase PSCo's potential capacity need up to 1,110 MW due to the proposed retirement of two coal units. The major components include:

- Early retirement of 660 MWs of coal-fired generation at Comanche Units 1 (2022) and 2 (2025);
- Accelerated depreciation for the early retirement of the two Comanche units and establishment of a regulatory asset to collect the incremental depreciation expense and related costs;
- A RFP for up to 1,000 MW of wind, 700 MW of solar and 700 MW of natural gas and/or storage;
- Utility ownership targets of 50 percent renewable generation resources and 75 percent of natural gas-fired, storage, or renewable with storage generation resources;
- Reduction of the RESA rider, from two percent to one percent effective beginning 2021 or 2022; and
- Construction of a new transmission switching station to further the development of renewable generating resources.

While the first bullet point in the description of the Colorado Energy Plan ("CEP") description sounds favorable (retirement of 660 MWs of coal generation), the rest of

[2] Public Service Company of Colorado or "PSCo" is the name of Xcel's operating utility in Colorado.
[3] PSCo's 2017 10-K is available from Xcel Energy's website under Information for Investors. The direct link is http://investors.xcelenergy.com/CustomPage/Index?KeyGenPage=1073751307

the CEP proposal can be hard to understand and it is questionable that Denver residents and businesses would support the CEP if they understood that, as currently structured, Xcel's CEP calls for:

- Customers paying off Xcel's investment in the Comanche 1 and 2 coal plants using accelerated depreciation, a regulatory asset and providing Xcel with its full level of profit (return at the Weighted Average Cost of Capital, or "WACC," of about 7.5%)[4] while paying off Xcel's coal investments.[5]
- Using "headroom" that has been created by falling renewable energy costs to pay off undepreciated coal plant "stranded" assets using the inscrutable "GRSA" ("General Rate Schedule Adjustment") mechanism.[6]
- Possibly limiting the analysis of the over 50,000 MW[7] of very low-cost wind, solar and storage bids received in November 2017 by Xcel in Colorado[8] to likely less than 2,000 MW of wind and solar, leaving over 90% of these very cost-effective renewable energy bids undeveloped.[9]
- The inclusion of ownership targets for PSCo[10] and the development of additional natural gas generation that could easily become uneconomical and therefore "stranded"[11] as storage becomes increasingly sophisticated and cost-effective.

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[4] The provision for paying Xcel their full level of profit (i.e. return at the WACC) on the regulatory asset that they are proposing to use to pay off the undepreciated portions of Comanche 1 and 2 is buried on page 71 of 84 (lines 17-18) in the Supplemental Direct Testimony of PSCo President David Eves submitted to the Colorado PUC on November 28, 2017 in Docket 16A-0396, Xcel-Colorado (i.e. "PSCo")'s 2016 Electric Resource Plan.

[5] Xcel-Colorado has earned profits on its Comanche 1 and 2 coal plants for years. Now that it is time to retire them early, Xcel is suggesting that the remaining undepreciated amount be socialized (i.e. charged to customers). This is an example of "privatizing the profits and socializing the risks." It works well for Xcel, but is not likely to be supported by most of Xcel's customers if they understood what was happening.

[6] For the reduction of the Renewable Energy Standard Adjustment or "RESA" being used to offset an increase in the GRSA, see page 71 of 84 (lines 12-17) in the Supplemental Direct Testimony of PSCo President David Eves submitted to the Colorado PUC on November 28, 2017 in Docket 16A-0396, Xcel-Colorado (i.e. "PSCo")'s 2016 Electric Resource Plan.

[7] For a description of the bids received by Xcel in November 2017, see for example, https://www.denverpost.com/2018/01/16/xcel-energy-low-bids-for-colorado-electricity/ . The bids have been "refreshed" to reflect the solar tariffs imposed in January 2018 and the Tax Cut and Jobs Act enacted in December 2017. The "refresh" has raised the median prices for some categories by a small amount, but the median bid prices are very low and by definition, half of the projects are below the median price. The public "30-Day Reports" on the bids are available from the Colorado PUC website under Docket 16A-0396E.

[9] Peak demand on Xcel's Colorado system is about 6,600 MW (see page 6 of PSCo's 2016 10-K), so even if a large percentage of the wind, solar and storage bids are not good, there are still plenty of renewable electricity and storage projects available to get to a high level of renewable energy—and likely save money while doing it.

[10] Ownership targets allow Xcel to own resources instead of allowing Independent Power Producers (IPPs) to own the generation and have the opportunity to earn profits from that generation.

[11] "Stranded Assets" refers to something that has become obsolete, non-performing or non-economic well ahead of its useful life. There is strong reason to believe that fossil fuel generation assets on Xcel's Colorado system are already or soon-will-be "stranded." The Colorado Energy Plan, at its essence, is an effort by Xcel to set the precedent for customers paying off stranded assets and paying Xcel's full level of profit (i.e. return at the WACC) on those stranded assets while customers pay them off.

While Xcel's "Colorado Energy Plan" can sound appealing on the surface, it contains several provisions that most customers would not be likely to support if they understood them.

Given the complexity of utility regulation issues generally and the Colorado Energy Plan specifically, it seems unlikely that Denver's Mayor Michael Hancock had a full understanding of what he was signing when he signed the Xcel-Denver MOU in early March 2018.

Summary Analysis of Sections of the MOU

Below is a quick summary of the various sections of the Xcel-Denver MOU.

Background: This section provides background on Xcel and Denver and the Energy Future Collaboration or "EFC" and the EFC Partnership. It contains no specific commitments.

Mutual Collaboration:

Vision (Section 1): This section contains general vision statements for Denver and Xcel. It contains no specific commitments.

Values (Section 2): This section contains general statements about values held by Denver and Xcel. It contains no specific commitments.

Guiding Principles (Section 3): This section contains provides guiding principles for the "Partnership" between Xcel and Denver. It contains no specific commitments but does say the "Partnership" will support Xcel's Colorado Energy Plan.

Collaboration for Renewable Energy, Advanced Technology and the Economy-Planning, Progress, Execution (Section 4): This section calls on Xcel and Denver to establish a Work Plan, to meet at least quarterly, to provide staff and resources to support the work, specifies that any extra program costs or incentives will be the responsibility of Denver or a party other than Xcel. This section also specifies that the MOU does not create a legal agreement between the parties, has no impact on the Franchise Agreement and is expected to last until the end of the Franchise Agreement, but that "either Party may end the EFC Partnership at any time in the event it elects to do so."

Attachment 1: As referenced in Section 4.1 of the MOU, Attachment 1 contains "initial ideas" for the Work Plan that will be developed every other year. The general areas that are discussed in Attachment 1 are:

- Smart technology
- Energy efficiency
- Fuel switching-Mobile Sector
- Fuel switching-Stationary Sector
- Resilience
- Transparency and data access
- Reliability and operations

As discussed above, the projects discussed in Attachment 1 are generally worthwhile goals, but they are likely to distract citizens and City Staff from advocating for changes on Xcel's system to reduce reliance on coal and natural gas and increase levels of wind, solar and storage.

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