

# Lessons From Negotiations With The Utility

■ Rebecca Cantwell

As executive director of the Colorado Solar Energy Industries Association, I spent much of my summer in corporate conference rooms at the headquarters of Xcel Energy, the utility serving about 60% of Colorado's population. We had embarked on the most complex energy negotiations in state history and eventually reached a landmark settlement between Xcel and nearly two dozen organizations covering scores of issues, including many affecting solar energy.



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What struck me day after day was how uneven the playing field is when it comes to setting energy policy. If we are serious about developing a 21st-century system that encourages renewable and distributed generation, a vibrant solar industry, and storage and advanced grid technology, we must realize that processes designed to regulate monopolies from the last century are woefully inadequate.

Investor-owned utilities develop formal resource plans. In this case, Xcel presented three separate dockets for approval by the Public Utilities Commission (PUC). In one of them - a rate case affecting everyone who pays an Xcel electricity bill - the company spent more than \$1 million developing its proposal. Guess who

pays? Those same ratepayers.

Although PUCs have vast power, few citizens know anything about them. A small group of economists and analysts are charged with evaluating the utility's plans on behalf of the public.

In Colorado and many different states, other parties that want to play in this game, such as our solar industry association, must "intervene" on their own dime. Each case requires a lawyer and subject matter experts with expertise in arcane rules and complicated procedures of the PUC and the utility. In short, getting involved is very expensive.

In one of these three cases, we faced a proposal from Xcel to build a 50 MW retail solar farm in direct competition with our industry. Because the maximum permitted size of a community solar farm is 2 MW, we compared this to being asked to approve a 50-story skyscraper for the utility in a two-story neighborhood.

Rather than face months of litigation, we agreed to embark on settlement talks with Xcel and other parties on all three cases because the issues were intertwined. Xcel had teams of lawyers, rate analysts, marketers and others at the ready to critique every idea and run sophisticated analyses.

What did our organization have? A virtually volunteer lawyer, a volunteer board president, some help from other volunteer board members, occasional paid help from experts hired by better-funded allies, and an execu-

tive director. We were expected to very quickly analyze and critique the impacts on our industry of sophisticated proposals with many moving parts.

We are pleased with the negotiated outcome. Certainly, hammering through these complex issues around a table was preferable to litigating. We are optimistic about four ongoing stakeholder groups that will continue to seek collaboration on complex issues, such as battery storage, advanced rate design and renewable energy programs.

But we had no real choice on some key utility issues, such as heavy reliance on demand charges for commercial solar customers. Supported with ratepayer dollars, Xcel has virtually unlimited resources, even though, as a public company, it uses those dollars to increase value to its private shareholders. To begin to lessen the disparity, changes are needed.

First, policymakers need to reconsider the rules of this game to ensure greater equity. For example, groups that intervene should be allocated budgets so they can afford to hire experts. Second, there needs to be more "public" in Public Utilities Commissions. From public education to public hearings, a greater effort is needed to bring these critical issues to the attention of the consumers they impact. Issues affecting the coming energy transformation need to be framed and discussed in a broader - and more public - context.

States will play an increasingly important role in setting the future of our industry, and we need to ensure that all the voices truly have a seat at the table. ☞

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