



51st State Perspectives

VOICES FROM COLORADO'S GLOBAL ENERGY SETTLEMENT:

26 INTERVENORS, 3 DOCKETS,
1 HISTORIC NEGOTIATION

PREPARED BY



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ABOUT THE SMART ELECTRIC POWER ALLIANCE (SEPA)

SEPA facilitates collaboration across the electric power industry to enable the smart deployment and integration of clean energy resources. Our focus centers on solar, storage, demand response, electric vehicles, grid management, and other enabling technologies.

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Prologue: Colorado Before

At noon on February 16, 2011, two executives from Xcel Energy paid me an unscheduled visit to let me know the company was suspending its popular Solar*Rewards program in 24 hours. The program provided incentives—both rebates and renewable energy credits—for residential customers who installed rooftop solar.

Less than a month into my position as director of the Colorado Energy Office, I soon found myself in the middle of a very public battle between the utility and the state's solar industry. What ensued was two weeks of incendiary op-eds, angry protests on the steps of the State Capitol Building, and emergency hearings in the Colorado Senate.

Working closely with Xcel and key representatives from the Solar Energy Industries Association (SEIA) and its state affiliate, COSEIA, my policy team successfully mediated a compromise resolution. We relied on shuttle diplomacy, creative problem solving by some key stakeholders, and borrowing best practices from other states. The compromise combined a slightly lower up-front rebate with a small, performance-based incentive spread out over 10 years.

While we felt great satisfaction in resolving that particular conflict, we anticipated further battles on the horizon. Thus, we began to explore how we might proactively engage all parties in developing consensus on a path for incorporating new renewable technologies into Colorado's electric power grid.

Unfortunately, and despite the best efforts of myself and the senior staff at the Energy Office, we were ultimately unable to gain traction with the concept of a regular, collaborative process between the state's utilities and key industry stakeholders. To my disappointment, by the time I left Colorado a few years later, the relationship

between the utilities and the solar industry, in particular, remained, very toxic.

So when news broke in the late summer of 2016 of the cross-docket "global settlement" between Xcel and 26 intervenors, I was excited and intrigued by the scope of the agreement. First, the intervenors represented a range of renewable energy, environmental and consumer interests. Second, the groups had hammered out a settlement document covering an equally broad set of interrelated solar, rate design, and renewable energy proceedings at the Colorado Public Utilities Commission.

For me, the agreement also demonstrated a new, shared vision for how the power sector might best evolve—a truly remarkable feat. How were the stakeholders able to overcome the status quo of mistrust and enmity to find broad consensus, and a new-found willingness to collaborate? And how might others learn from the success Xcel, the Colorado Energy Office, and the other 25 stakeholders found in this new approach?

This oral history—a new approach for a SEPA report—attempts to chart the human process of consensus building and cooperation between utilities and other industry stakeholders with competing interests. Our goal is to better understand the key components of engaging stakeholders in a truly collaborative process that can deliver win-win compromises.

As part of SEPA's 51st State Initiative, this paper is also intended to complement the broader toolkit we are developing to assist states and other jurisdictions in accelerating their transition to a cleaner, more resilient, more customer-centric—that is, smarter—power grid. The Colorado model may not be a good fit for all the conditions in all markets. Rather,

we hope, it provides inspiration and takeaways that can be adapted to your own efforts in grid modernization, rate reform and business model evolution.

Tanuj Deora

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Former Director, Colorado Governor’s Energy Office, 2011-2012*

P.S. Please check out all the resources on our 51st State website (www.sepa51.org), and join the conversation in person at one of our SEPA or Solar Power trade show events (<http://events.solar/>). We invite your feedback on our work, and your insights on moving our industry forward.

Integrating distributed energy resources into the grid should be a process that all stakeholders are excited about and see benefit from—one that involves fewer picket signs and more handshakes.

Introduction

In late summer 2016, a range of energy industry stakeholders—from policy wonks to utility executives to consumer and solar advocates—focused, almost as one, on Colorado as news broke of a historic settlement reached there on renewable energy and rate reform. Negotiated settlements on net metering and other solar issues had occurred in a few states, but the scale and range of issues—and the number of organizations and interests—involved in the Colorado agreement were truly unprecedented.

In addition to Xcel Energy, the state’s main investor-owned utility, 26 groups took part in the negotiations, from established stakeholders with long experience in regulatory proceedings, such as Western Resource Advocates, to small nonprofits, such as GRID Alternatives, which works to make solar accessible to low-income communities.¹ At times, more than 60 people—attorneys, advocates and other subject matter experts—were in Xcel’s conference room, talking, texting, consulting

spreadsheets and scrutinizing the agreement’s draft language line by line. In some instances, the meetings lasted seven or eight hours.

TABLE 1: SNAPSHOT OF XCEL’S COLORADO SERVICE TERRITORY

SERVICE TERRITORY	Mixed (Urban and Rural)
UTILITY TYPE	Xcel has 64% of residential market share in the state. ²
DER PENETRATION	High ³
UTILITY STRUCTURE	Vertically Integrated
WHOLESALE MARKET	No organized market ⁴
RETAIL MARKET	Vertically Integrated
RENEWABLE POLICY	Investor-owned utilities: 30% by 2020
NET ENERGY METERING	NEM policy in place

Source: SEPA, 2017

1 Although 26 groups took part in the negotiations, only 23 signed the final settlement agreement. A copy of the agreement with all 23 groups listed at the end is available at <http://coseia.org/co-solar-policy/public-utilities-commission/>

2 Source: Advanced Energy Economy PowerSuite, <https://powersuite.aee.net/welcome>

3 According to SEPA’s Utility Database, Public Service, Xcel’s subsidiary in Colorado, ranked seventh in interconnected residential solar projects—with a total of 31, 865—and third in residential batteries, with 181. Source: utilitydatabase.org

4 In October 2016, the Colorado PUC opened a docket on the potential participation of Xcel and other Colorado utilities in a regional transmission organization (RTO). The docket remains open, with no decision issued as yet. See Colorado PUC Docket 16I-0816E.



Equally important, the final agreement covered issues raised by three different regulatory dockets, linking rate reform with solar market growth and longer-term planning for other renewables and distributed energy resources (DERs). In fact, the interconnectedness of the issues was a main impetus for so many people with so many competing interests to commit to spending weeks first negotiating the basic outlines and then hammering out the final details of the agreement. They had also seen in their own state and elsewhere the divisiveness and policy stalemates that could

result from a narrow focus on one issue—retail-rate net metering. The debate in Colorado and other states centered on whether solar owners should be compensated for the excess power they feed onto the grid at retail rates, the status quo in many states, or at a lower price, reflecting utilities' wholesale or avoided costs for power.

In 2015, the Colorado Public Utilities Commission (PUC) ended an 18-month-long, very contentious proceeding over net metering by maintaining retail-rate compensation—at least for the near-term future. Meanwhile, after equally heated debates,

WHO WE INTERVIEWED

One thread uniting the five individuals we interviewed for this project is that they all started in very different places, professionally, from the jobs they held at the time they took part in the negotiations—in some cases dramatically so. In other words, they had all been through transitions requiring a significant change in paradigm or perspective. Most of them also share a passion for energy and environmental issues, and they are all based in Denver.

At the time of the negotiations, **Alice Jackson**, was Regional Vice President for Rates and Regulatory Affairs at Xcel Energy. But she had started her career as a computer programmer for Enron, hired only a few months before scandal engulfed the Texas energy company in 2001. She then moved to an independent energy retailer in Texas, and eventually to Xcel. She is now Xcel's Vice President for Strategic Revenue Issues.

Erin Overturf majored in anthropology and economics in college, and after law school, "by a fluke," she recalled, landed a job with the Colorado Attorney General's Office. While representing the state's Public Utilities Commission, she said, she got hooked on energy issues. She is now chief counsel for Western Resource Advocates (WRA), a nonprofit that works on a broad range of environmental issues, including the impact of energy policies in the western U.S.

Lindsey Stegall studied classical music performance at the New England Conservatory of Music, but ultimately decided to pursue an MBA in sustainability and go to work in the energy space. Currently, she is a policy and regulatory analyst at the Colorado Energy Office, a branch of the Governor's Office focused on delivering cost-effective energy services and advancing innovative energy solutions in Colorado.

After a substantial career in journalism, **Rebecca Cantwell** left her job as political editor at The Denver Post to pursue a passion for climate issues and renewable energy. She started out at the Colorado Solar Energy Industries Association (COSEIA), the state's solar industry trade group, managing a federally funded project before becoming executive director.

Tom Figel first came to Washington, D.C. in the summer of 2008 to work on Democratic Party campaigns and stayed on as a front office staffer in the House of Representatives. He then followed his interest in environmental and energy issues to a master's degree focused on energy policy. In 2013, he was hired by GRID Alternatives, a nonprofit that focuses on improving access to solar in low-income communities. At present, his title is Policy and Regulatory Manager for Community Solar.

the Nevada Public Utilities Commission voted to end net metering in the state, even for existing solar owners—a highly controversial decision that resulted in two major solar firms exiting the market there. (Nevada recently passed legislation restoring net metering at close to retail rates.)

Industry stakeholders in Colorado wanted to find another, more collaborative way forward—and create a model for others to follow. The oral history that follows tells their story. It is focused less on the outcome of the Colorado negotiations—which have been and continue to be extensively covered. Rather, it looks more closely at the process and the people who made it happen and continue to work on implementing the provisions of the settlement.

Who were the individual negotiators? Why and how did they get to the table, and what kept them there, even at times when they thought about walking away? What did they learn, and what can we learn from them? What might or might not be replicable in the process they created?

To answer these and other questions, the Smart Electric Power Alliance (SEPA) talked with five of the people involved in the Colorado negotiations, all representing widely different perspectives and interests. Beyond capturing the human emotions and insights, the quirks and complexities, of intense, high-stakes negotiations—for us, Colorado embodied the essential principles, or doctrines, of energy market transformation we have developed through our 51st State Initiative.

SEPA launched the initiative in 2014, at a time when heated debates on net metering were dominating headlines in industry and mainstream media. Many of those stories tended to set up an adversarial narrative of irreconcilable interests between utilities and the solar industry. Like the people involved in the Colorado negotiations, we wanted to offer

an alternative—an open platform for respectful debate and information sharing that would allow individuals and groups with competing interests to find common ground.

Since then, the initiative has evolved from its original focus on big-picture, hypothetical visions of an ideal future energy system, to more practical roadmaps for change. More recently, here and in other 51st State reports, we have explored the real-life models for energy market transformation being planned or implemented in different states across the U.S.

What our research shows clearly is that while the details of transformation vary from state to state—based on market conditions, demographics, generation mix and regulatory structures—such variability doesn't mean every state must start from scratch. From Hawaii to New York, California to Illinois and Colorado, we have found that evolving market structures, and business and regulatory models tend to share an underlying foundation of specific principles or doctrines. [Table 2](#), on the following page, summarizes these 51st State doctrines, in the left-hand column, and their alignment with specific provisions of Colorado's 2016 settlement, on the right.

Stakeholder engagement—proactive, holistic and ongoing—is integral to creating the structures or roadmaps for the collaborative change that lies at the heart of these four doctrines and energy market transformation in general. What makes Colorado significant is that the engagement process—and cross-docket negotiations—emerged as an essential, catalyzing factor for a continuing cycle of regulatory and business model change.

Less than a year after the original settlement was filed, a second round of negotiations has produced another approved settlement on grid modernization and a decision approving rate decoupling.⁵

“We were in the right place at the right time with the right people. They were ready to try because there was a lot of animosity and people were tired of it.”

—ALICE JACKSON

5 See Decision C17-0557, Proceeding 16A-0546E; and Decision C17-0556, Proceeding 16A-0588E; both adopted June 21, 2017, available at <https://www.colorado.gov/dora/puc>.

Decoupling breaks the connection between energy sales and utility revenue. It will give Xcel more flexibility to recover costs as energy consumption falls due to renewables, energy efficiency and other DERs. [Table 3 on page 19](#) provides a summary of the provisions of these decoupling and grid modernization approvals, again in alignment with the 51st State doctrines.

Colorado changed the narrative on relations between utilities and the solar industry. Competing interests—and the need for tradeoffs between them—still exist, and likely always will. But a new level of communication, mutual respect and, perhaps, even trust have been established as a foundation for ongoing energy market transition, one in which all voices are heard and all stakeholders can benefit.

TABLE 2: 51ST STATE DOCTRINES AND THE 2016 COLORADO GLOBAL SETTLEMENT

DOCTRINES & SUMMARIES	2016 SETTLEMENT PROVISIONS
<p>PROMOTE EFFICIENCIES A PRIMARY GOAL OF THE MARKET SHOULD BE TO PROMOTE EFFICIENCIES IN THE PRODUCTION, CONSUMPTION, AND INVESTMENT IN ENERGY AND RELATED TECHNOLOGIES.</p>	<ul style="list-style-type: none"> ■ Future residential time-of-use (TOU) rates would reward customers for using energy off-peak. ■ Voluntary trials and pilots of time-differentiated rate structures—both time-of-use and demand charges—could reward customers for shifting energy use to off-peak hours.
<p>CLEARLY DEFINE ROLES THE ROLE OF THE UTILITY, AS A PUBLIC SERVICE ENTITY, SHOULD BE CLEARLY DEFINED SO THAT ALL MARKET PARTICIPANTS CAN UNDERSTAND THEIR ROLES IN ENABLING CUSTOMER OPTIONS IN A FAIR, TRANSPARENT, AND NONDISCRIMINATORY MANNER.</p>	
<p>IDENTIFY PRINCIPLES OF RATEMAKING RATE STRUCTURES SHOULD PROVIDE TRANSPARENT COST ALLOCATION THAT SUPPORTS A SUSTAINABLE REVENUE MODEL FOR UTILITY SERVICES PROVIDING A PUBLIC GOOD.</p>	<ul style="list-style-type: none"> ■ Initial request for fixed grid-use charge replaced with voluntary trials and pilots of time-differentiated rate structures—both time-of-use and demand charges—to precede potential rollout of default TOU rates.
<p>FOSTER CUSTOMER CHOICE CUSTOMERS SHOULD BE PRESENTED WITH A VARIETY OF RATE AND PROGRAM OPTIONS THAT EXPAND THEIR CHOICE OF AND ACCESS TO ENERGY-RELATED PRODUCTS AND SERVICES THAT ARE SIMPLE, TRANSPARENT, AND CREATE STABLE VALUE PROPOSITIONS.</p>	<ul style="list-style-type: none"> ■ Expansion of customer choices for clean energy: <ul style="list-style-type: none"> ▪ Up to 342 MW of new solar options, including 225 MW for expanded rooftop solar programs and 117 MW for community solar. ▪ New product, Renewable*Connect, offers a fixed-price subscription to a solar facility of up to 50 MW, providing a potential price hedge against escalating retail electricity rates. ■ New opportunities for low-income customers to access solar via rooftop installations or community solar.

Source: SEPA, 2016, The 51st State—Blueprints for Electricity Market Reform, <https://sepapower.org/resource/blueprints-for-electricity-market-reform/>

The Starting Point: Looking Beyond Net Metering

In August 2015, the Colorado PUC ended an 18-month long debate on how rooftop solar owners in the state should be compensated for the power they feed onto the grid with a decision to maintain retail-rate net metering.⁶ With the adversarial, emotionally charged conversations of that proceeding still fresh, Xcel Energy recognized that a comprehensive approach to the underlying issues of DER integration, grid modernization and rate reform was needed.

A first attempt, the initial draft of a document the utility called “Our Energy Future,” met with mixed reactions from stakeholders. In particular, Xcel’s plan for a new solar program called Solar*Connect sparked solar industry pushback. As originally conceived, the program would have allowed customers to buy power from a 50-megawatt (MW) solar project at a premium price.

Alice Jackson (then Regional Vice President for Rates and Regulatory Affairs at Xcel): We could see, if you looked out over the horizon, that there was an even more significant problem coming—of the cost shift and then the subsequent increases that we would experience in our rate cases. . . . Even though our commission had said don’t do anything at this point in time, it was pretty obvious that if we came back [to this issue] in five years, it was going to be too late. . . .

So, we started looking at what do we need to do in our service territory to have the conversation, because, number one, we have no problem with solar, we have no problem with our customers making choices. It is a matter of the old utility model doesn’t match up with enabling those types

of things for an investor-owned, vertically integrated utility, right?

So, what is the conversation that we need to be having? How do we allow our customers, or enable our customers, to make the choices that would

then, quite frankly, drive the investments we make in the future to things that they are selecting and they want to see done? So, we put together a comprehensive package that we called “Our Energy Future.” We presented it to various stakeholders, got a lot of

feedback and then presented it officially.

Erin Overturf (Chief Energy Counsel, Western Resource Advocates): I guess around the end of 2015 [Xcel] announced Our Energy Future. Here is what we are going to do, guys; it is going to be awesome. We have got it all figured out; don’t worry. It is going to be rad. Here you go. And they filed eight different cases to the PUC all at once, that implemented various aspects of this grand overall vision that the company had come up with.

Rebecca Cantwell (Executive Director, COSEIA): The most important docket to have a little background on is Solar*Connect, because that is the one that was really a new thing that Xcel had proposed . . . They wanted to build a 50-MW plant [for individual and corporate subscriptions]—what we saw as direct competition with the solar industry. That initial proposal [filed in 2014] was soundly rejected by the PUC.

Tom Figel (Policy and Regulatory Manager, GRID Alternatives): GRID had been in Colorado for about four years at that time and had been looking for opportunities to engage more with Xcel to expand

“This system of PUCs and this high priesthood of 50 lawyers who understand what is going on is a bad way to make policy.”

—REBECCA CANTWELL

⁶ Colorado PUC, Decision No. C15-0990, Proceeding No. 14M-0235E, adopted Aug. 26, 2015.



opportunities for low-income access to solar and distributed renewables.

Xcel Energy had been approved, through the original Colorado Renewable Energy Standard, to collect funds from all ratepayers to pay for the incremental costs of renewable energy programs. That is the RESA account, the Renewable Energy Standard Adjustment, that is a fund that has been collected since 2006. They have collected, I think to date, almost a half billion dollars and all ratepayers pay into that, and all ratepayers indirectly benefit from investments in renewable energy.

But a lot of those funds have been used directly to incentivize rooftop or distributed renewables, which low-income customers still face additional financial barriers to be able to access. So, we put together some research that Xcel has about 300,000 low-income residential ratepayers that paid about \$70 million into that [RESA] account and hadn't received any sort of direct investment [by the utility] to be able to take advantage of the direct benefits

of solar energy in the same way other customers had. That was our fundamental reason for getting involved—to address this equity issue.

Cantwell: We had just finished a process on net metering, a very exhaustive, long, detailed—you know, many, many pieces of paper that would fill a room—kind of process, and the commission had said

net metering stands. And then a few months after that, [Xcel] comes back with a grid use charge proposal saying, well, because solar is taking away so much of our money, we need this new fee. So, we were very concerned about that. . . .

We had already been building up a lot of public awareness. We had done an event where we had over 200 people on the steps of the Capitol to stand up

for solar and then march over to the PUC and speak at a public hearing on the rate case. . . . I was doing a lot of public speaking, and we were doing a lot of written outreach with a lot of groups; so, we had built up quite a lot of public awareness and concern.

“We have no problem with solar; we have no problem with our customers making choices. . . . The old utility model doesn’t match up with enabling those things for an investor-owned, vertically integrated utility.”

—ALICE JACKSON

The Flash Point: Multiple Dockets, All Connected

In early 2016, Xcel filed its revised version of Our Energy Future,⁷ along with three separate documents with the Colorado PUC—a refiling of Solar*Connect,⁷ Phase II of its general rate case,⁹ and the 2017-2019 Renewable Energy compliance

plan (RE Plan).¹⁰ The company then reached out to a small group of stakeholders initially with the intention of opening negotiations for a settlement on the refiled Solar*Connect docket.

7 See <https://www.xcelenergy.com/staticfiles/xe/PDF/Marketing/CO-Our-Energy-Future-Brochure.pdf>

8 See Verified Application of Public Service Company of Colorado for Approval of Its Solar*Connect Program, Proceeding No. 16A-0055E, Jan. 27, 2016. www.colorado.gov/pacific/dora/puc

9 See Advice No. 1712, Proceeding No. 16AL-0048E, Jan. 25, 2016 www.colorado.gov/pacific/dora/puc

10 See Verified Application for Approval of 2017-2019 Renewable Energy Compliance Plan, Proceeding No. 16A-0139E, Feb. 29, 2016. www.colorado.gov/pacific/dora/puc

The interconnectedness of the three filings quickly became an issue.

Overturf: I was the attorney assigned to all of these [dockets] that were happening at the same time, and it was super overwhelming and terrifying, and like—oh my gosh, just the workload is going to be incomprehensible. There were a lot of people within the energy [legal community] who were in a similar situation, where we were all working on all of these cases all at the same time and, I think, everybody was feeling super overwhelmed and like—we just simply cannot litigate all of these cases all at once and do a good job.

Cantwell: So, there was the Solar*Connect refiling; there was the general rate case; and there was the biannual renewable energy plan. And initially, Xcel said, let's talk about trying to settle Solar*Connect. . . . They reached out to a group of stakeholders, us included, and we felt like it was all very much nibbling around the edges. We had already gotten very concerned about the sum total, cumulative impact of these three dockets. So, my immediate reaction—along with other allies—was [we had] little interest in talking about Solar*Connect unless we are going to talk about the bigger picture.

Overturf: The first meeting we had was with the company [Xcel] and all of the intervenors who were part of the Solar*Connect proceeding, and it was super frosty and not at all productive. Everybody was just not feeling anybody else.

Lindsey Stegall (Policy and Regulatory Analyst, Colorado Energy Office): What made this one different, I think, was the volume of proceedings we were doing all at once and the way some of the proceedings were interrelated. It wasn't until we talked through one of the cases with just a few stakeholders that the idea came up to pursue what we started calling a "global settlement," and I would say that idea was what made the situation unique. . . . We actually had two of these meetings before we got

together with the larger group, and I think that was sort of what paved the way for the larger discussions.

Overturf: The way that the conversation initially got started was talking about Solar*Connect, and it was really clear that the solar industry and some of the consumer advocates were basically never going to be able to agree to creating a new product like that unless we looked at it in the context of this broader vision about what we were doing in terms of

customer choice opportunities, distributed generation, rate design, things like that.

So, those of us that were involved in each of these proceedings, I think we began to see some of the overlap and the potential for compromise across various proceedings. . . . We realized that the issues

in these three cases were really all interlinked, and it was way more likely that we were going to get an outcome that maximized the benefits for everybody if we put all the issues in one giant pot and tried to figure out the gives and takes across the broader buffet of stuff, as opposed to litigating each individual case.

Jackson: After all three of those cases had been filed, we were looking at how do you settle? Or how do you have conversations about settlement? We had gotten the parties together for settlement negotiations [on Solar*Connect], and it was pretty clear from some of the conversations, that talking about them independently wasn't necessarily going to work. . . . We were going to have to broaden the conversation because there were impacts between the various cases. So, if you made choice A in, say, the Phase II case, it impacted choice C in the RE plan. It really is the policy [that is] underlying the outcome in all of the cases.

We definitely talked about it internally and asked, "What is the probability of success, of moving through [these dockets] this year, if you have them stand alone versus bringing them together?" So, bringing them together was what we decided to move toward.

"Part of coming to an agreement like this is knowing the personalities and individual relationships in that room and then figuring out what is compelling to each person."

—ERIN OVERTURF

Key Challenge: How To Work With 26 Intervenor

The cross-docket negotiations got underway in May, but were soon sidetracked by the sheer unwieldiness of working with 26 intervenors. A smaller working group was formed to begin finding some basic points of compromise. While somewhat controversial, especially among the organizations not in the smaller group, the approach was effective.

Jackson: There were 26 intervenors; that's a big number as it is, but that doesn't mean there are 26 bodies in the room with 26 opinions. It means we had 65 people negotiating or present at a number of these meetings. That's a lot of people to try and move through a process with and negotiate and get an outcome that is going to fit in the timeline that we had to fit it in.

Cantwell: We met in a very large Xcel Energy conference room around a big table where, if I was at one end and you were at the other . . . you would have to almost yell across the room. It was, in many ways, just an awful lot of people at the table.

Overturf: It took a lot of time for us to come up with a structure. We spent a lot of time at the beginning just kind of going around and beating an issue to death and not coming to a conclusion about it; or just everybody talking about their feelings, and nobody actually getting anything done.

Jackson: We had a number of intervenors that would say, "You know, this doesn't seem like it is working real well. We are interested in getting to a solution, so what about trying X?"

And we recognized that if we truly wanted to have success, we weren't going to be able to have all the voices in the room on day one. . . . We sat down and worked out—okay, here are all the parties across all the dockets. What are their interest areas? We wanted to make sure we had participation from every interest area, but we didn't necessarily need every single person that resided in that interest area to weigh in initially. But we didn't want to leave any interest areas out. That meant we had, I think, something like seven different solar perspectives from the intervenors.

One of the things you will probably hear from some of the parties is, "Well, I wish I would have been there on day one." The problem is—I don't think we would have gotten to this outcome if we had had all 26 in the room on day one.

Cantwell: Maybe three or four weeks into these general discussions, Xcel said, "Let's actually sit down with these six or eight parties that are actually parties to all three dockets, that are key to any sort of deal."

So that is what we did. We had very, very intense, structured conversations with just a handful of the parties and came up with sort of the basic outline of a deal and then brought the other 20 or so parties back into the room.

Stegall: Xcel invited a certain core group of parties to meet at their office to discuss all three proceedings at once. They wanted to start with a smaller group as opposed to all the intervenors, which was a bit of a source of tension at first, but logistically, it made sense.

"Where a lot of parties started out was not where they ended up. It really came to small bits of progress built on each other, and, honestly, we didn't know if it was going to work until the end."

—LINDSEY STEGALL

There was some pressure to pull more stakeholders into the group at first. I think Xcel was hoping that the stakeholders they chose could represent the interests of the other parties, but that wasn't necessarily the case, so I think some parties were pushing for more inclusion at the beginning.

Cantwell: I was okay with it because I was in the smaller group. The awkwardness of a situation like that is always who is in and who is not. But I think that it worked itself out actually pretty effectively. [Prior to the meetings,] we, as a solar industry,

got ourselves together, five or six of us, sort of allies, and developed a list of our top priorities that cut across the three dockets. We were able to advocate very strongly for everything that the solar industry had felt was a key priority; we were able to make progress; we were able to come up with sort of the shape of an agreement. . . .

I think, definitely, there were some of those folks who were unhappy they weren't at the table, but truly the smaller group didn't feel like it was very long. It was maybe a couple of weeks before everyone else was brought back in.

Ground Rules: Respect, Integrity And A Very Large Spreadsheet

Even within the smaller group, structure, ground rules and a road map were needed. A very large spreadsheet and a focus on solutions provided momentum for moving toward the main points of the settlement.

Jackson: We started the conversations going—OK, let's first talk structure. If we are going to bring these three cases together, here is the process we think we should move through . . . This is how we are going to meet. This is how we are going to talk. This is how we are going to touch on issues.

Number one: Respect and integrity in the room. If you are going to bring emotion and negative attitudes, this is not going to work. But if you bring legitimate issues, let's talk them through. Figuring all of that out and setting up the structure initially, I think, was part of the key to moving us forward.

Stegall: At first, it was definitely overwhelming. There were so many different issues in each case, and it was clear that each of them was going to

need detailed discussions. I felt like at the first meeting we barely scratched the surface on any of them, and I personally came out of that meeting pretty skeptical that we would ever reach agreement.

Cantwell: It was basically going around and talking about what were the priorities of certain groups and then going in a pretty orderly way through a set of issues. I think there was definitely a lot of hesitation and mistrust and caution initially, but [that] got eased over time through the course of these discussions.

Overturf: Eventually, where we wound up was we required everyone to submit written proposals that basically said—these are the issues we care about. These are the changes that we would need to see for us to come to an agreement. . . .

We got just a giant chart that basically had all the issues and all the different parties' positions on them, and at that point, we were able to finally

“Sending people random text messages of turkey emojis is a legitimate negotiating strategy.”

—ERIN OVERTURF

start going systematically through. Let's talk about rate design and specifically this kind of rate design; and let's see if we can come to a resolution on that, and then let's move on to the next thing.

Stegall: I don't really recall any explicit guidelines or anything, but Xcel did do a good job of facilitating and sort of setting the tone of the negotiations, and parties were actually really quite respectful through the process. . . .

Eventually Xcel kind of honed their methods of efficiently conducting the meetings and moving through the issues. They developed a big spreadsheet that had a list of all the stakeholders and different issues that were priorities for different stakeholders, and we would just work systematically through the spreadsheet.

And another thing we started doing as we went along was breaking up the topics and holding subgroup meetings for the parties that were interested in that specific topic. For instance, Xcel was proposing a recycled energy tariff, which is a special rate for waste heat producers that want to turn heat into electricity. But there were really only a few parties that cared about that topic. We were one of them. So, we met separately so as to not have to waste everyone's time.

Jackson: Within a month, I want to say, of the smaller group meetings, we had a skeleton for how this was going to proceed forward. We had a matrix that had identified issues, the parties' positions on these identified issues, and then it was a matter of tackling them one by one—here's how we think we can resolve some of these.

Cantwell: It was pretty organized because most of these meetings had specific topics. So, we would have a morning devoted to community solar issues; we would have an afternoon devoted to the commercial and industrial rate issues; we would have another morning addressing how they were going to set up these pilot residential rates.

. . . That gave me an opportunity to have a board member or two who might be in community solar come to that [session] and help me out, or it might be the same in commercial solar.

So, it was quite orderly in terms of building a list of things that we had agreed on, with the understanding that we weren't going to come and relitigate every one of those every time. Those would be open to the bigger group—once the

group was expanded—to revisit, but that once we were done, we were done. And when we didn't agree, we would just put those topics into a different bucket and then come back to them.

Jackson: Once we got, I would say, through 60 percent, to the point where we were

going—okay, we think we can reach a settlement on this, and this is headed in the right direction; we brought all the other parties back in. We said, this is what we have been doing; this is where we are; now you all get your chance to take a look at this, modify it, talk to us about it, ask questions. Then let's see if we can get a settlement across as many of the parties as we can.

“If you are going to bring emotion and negative attitudes, this is not going to work. But if you bring legitimate issues, let's talk them through.”

— ALICE JACKSON

26 At The Table: Long Days, Communication And Comradery

Toward the end of June, all 26 intervenors—and their lawyers—returned to the negotiating table. At this point, the sessions became even more intensive and legalistic, with long days and nights. At the same time, the process also became more bifurcated. In addition to the actual decisions and compromises made in the conference room, an undercurrent of texts, emails and side conversations became an equally essential part of the negotiations and helped build a sense of comradery and even trust.

Overturf: After we got a rough framework of what we were doing, and then we opened it up to everyone, the reality was that we wound up rehashing a lot of those things with the new people. . . . We wound up having basically the exact same conversations and the exact same negotiations all over again. . . . We were sitting in a big giant circle, and we all had little name cards that said where you're from. It was a very model UN, and it just took forever, as you can imagine, having that many people and that many lawyers stuck in a room together.

Cantwell: I was very conscious that because [the other intervenors] had not been at the table, I just wanted be in listening mode and let them say what they wanted to say and get what they needed to get. I think it was very helpful to have a new set of people with a lot of expertise pushing the company harder in that second phase of the negotiations. We were able to let our colleagues, including a lot of the top-notch lawyers who weren't in the room before, come in and really hammer out a lot of the details later on. So, I think it ended up working out pretty well, considering those limitations.

“The entire proceeding from a process standpoint was many hours. But when our issue comes up, it is very short—essentially a live negotiation with Xcel.”

—TOM FIGEL

Figel: I think in the overall process, maybe it was a third or so of the way through—late summer, I guess, where they were starting stakeholder conversations on the RE plan specifically, and we were brought in. We were successful in getting more discussion on low-income solar programs but were not brought into the initial conversation. It

wasn't until the second meeting of that subgroup that we were brought in directly.

We weren't necessarily an established voice in those circles, and there was kind of initial resistance to including us. But once we were able to get into the room, our advocacy lawyer, GRID's board president

Vicky Mandell, formerly with WRA and various other advocacy groups, as well as Xcel in Colorado, had those very personal relationships with the other lawyers in the room, which helped establish our voice. . . .

Jackson: There were quite a few days where these meetings were seven, eight hours long. I mean, we were bringing in food and breakfast and drinks and taking breaks. . . . There were definitely hard days where we did not agree.

Overturf: It truly was super exhausting. I cannot believe that I spent my entire summer sitting in a conference room for eight hours a day. Then you're texting people in the middle of the meeting and calling them at 7 o'clock at night and being like—well, what about this and what about that? Could you live with this? What do you think about that? Have you thought of this other thing?

Figel: These relationships are very established—the professional communication amongst the legal representation—and then there is this kind

of subcurrent of communication that is happening between parties that are aligned, via chat, via text. A lot of times those negotiations can happen so quickly, you have so much being communicated in kind of an undercurrent; groups are constantly going back and forth with each other nonverbally during the whole proceeding. So, you learn some of those social ground rules and communication strategies. . . .

I was surprised by the contrast between the timeline and length of the overall engagement, and the time for actual negotiation on your issue. The entire proceeding from a process standpoint [was] many hours in rooms together. But when our issue comes up for negotiation, it is very short. It is essentially a live negotiation with Xcel, where they are coming back to us with an idea that is perhaps new or something you need to respond to very quickly. So, the contrast between the amount of time spent preparing and engaging and getting your ideas supported, to making a very specific decision

on a really short timeframe, was certainly sort of surprising and could be challenging at times.

Overturf: When you spend that much time together, when you are sitting in a room negotiating for eight hours at a time, I mean you have to recognize the humanity of the other people that are in that room, right? There are jokes; we are eating meals together. It is hard to keep up those walls for that long.

Figel: [There were] extremely long, long nights, very short deadlines, Sunday morning conversations with the stakeholders . . . There is sort of this comradery that comes out of that. Even though many groups will really have completely polarized or conflicting positions, there are personal relationships that develop to be able to work together and come to agreement through a process like this. You do kind of feel like you have gone through something together, and there is a component of comradery that comes out of that, that I will miss.

Respect, Trust—And Staying At The Table

Trust is one of those intangible things essential to compromise, but it can take time, patience and perseverance to build. In Colorado, especially, the adversarial relationship between the solar industry and Xcel was deeply ingrained from years of conflict over net metering. With Xcel's Alice Jackson setting the tone, the 2016 negotiations opened a new and deeper level of communication among the participants. Looking back, they spoke more of mutual respect than trust. That and a sense of mission helped keep people at the table through some of the negotiations' harder moments.

Overturf: I think that there were big barriers on the trust side. We had had a lengthy net metering proceeding in Colorado that just kind of fizzled out, it didn't come to a real resolution. I know that there was lots of baggage that people had carried from previous rate cases and previous net metering

arguments—distrust and wanting to hold people accountable for things that they had said in prior proceedings.

Jackson: I think one of the reasons that the people in the room had a hard time trusting each other [was] because they didn't understand each other. They didn't have a fundamental understanding of how the different businesses operated, why people took certain positions. I would say one of the best things that we got out of the process—I mean the settlement is great, the settlement is going to carry us forward and give us the construct to continue the conversations that we started—but just being able to simply sit down and have those conversations, we had never done that before.

Overturf: By the end, I don't know that I would say that people trusted each other, but I think that we all had for the most part a begrudging respect for

each other and an acknowledgement—I hear you. I hear where you are coming from. None of us are evil. You are trying to do what you think is best. I think you are wrong, but I understand where you are coming from. . . .

Part of coming to any kind of an agreement like this is knowing the personalities and the individual relationships that are in that room and then figuring out what is going to be compelling to each individual person.

Jackson: Why do you want that? Why is that important? And then being able to share back your perspective. When you go away at the end of the day and then come back the next day, maybe it is not so important anymore because people actually understand each other’s perspectives and what they were asking for. Their

perspective initially was—we don’t understand why this is so hard for you to do. Once you come back with—well this is why it is so hard for us to do, and why you see us pushing back in the way that we are pushing back—they go, oh, well then what if we tweak X, Y or Z? Does it work for you then? And we would be able to sit there and go —Yes. OK, that’s the way we can go.

Cantwell: Alice Jackson, who was the point person for Xcel, certainly came across as more open and willing to listen and willing to change than many of the people we had worked with in the past. Her attitude was much more open and her willingness to listen seemed good.

Jackson: I have four sons; so, if you are talking about negotiation and compromise and figuring out how to get things done, there is some training that comes from there as well.

Figel: There are a lot of very separate interests, but it is a pretty tight-knit community that knows each other already through prior proceedings, prior meetings and have an established protocol for communication and engagement. So, once

you are at the table—if you have a lawyer like we do, who has those prior relationships—it helps to break down a lot of those communication and trust barriers.

Overturf: I am sure many states are like this. If you are a lawyer or an expert who does stuff with the PUC, you know everybody else. You know how many kids they have; you know they just got back from surfing in Mexico. You just know each other.

We saw that there was a lot that was possible doing it this way and that it wasn’t just about doing something that was good for Colorado. It was also demonstrating that there are alternatives, that there are compromise positions to be had, that it doesn’t need to be a dragged-out, bloody fight, that there are alternatives. . . .

We are a regional organization, and we have staff in Nevada who were very involved in the net metering stuff that happened in Nevada, so we all thought, “We don’t want to be Nevada. We don’t want this to blow up.” . . . So, trying to learn some lessons from what other states had experienced probably also was a really big motivator for those of us that were like, “Damn it, we are getting this done. We are going to keep talking.”

Stegall: For the energy office, bringing parties together and finding common ground, is really a priority, so we were there to stay.

Cantwell: There were some of these issues, like the commercial and industrial rate design issue, that were really important to a number of members of my board, and I was feeling a lot of pressure from some members of my board to just walk out—because it was clear that Xcel was not going to budge. But at the same time, on the flip side, we were getting concessions elsewhere, so it sort of goes back to this thinking of the whole process as a big bag of tricks, not one thing or another.

That was part of the whole idea of compromise—that they did move in enough places that we felt we

“I was feeling pressure from some members of my board to walk out. But we were getting concessions elsewhere. It goes back to thinking of the whole process as a big bag of tricks, not one thing or the other.”

—REBECCA CANTWELL

got enough to keep going. But that didn't mean that we were satisfied or were thrilled or were overjoyed with what we got. We felt like it was adequate but not more than that.

Figel: In the first draft of the settlement, we had absolutely nothing included in what we were asking for, and that was certainly deflating. We were fairly far along in the process at that point and had expected to at least get something.

The Settlement

The final weeks and days of the negotiations yielded critical compromises and an increasingly intensive, line-by-line scrutiny of the settlement document itself. Some participants worried that last-minute wrangling over wording and other small details might scuttle the whole process.

Cantwell: [Xcel] had started out wanting to move toward residential demand rates as a path of the future, and those are not popular with solar. . . . When we made it very clear that that was not okay, they just came back one day and said, "Well, we will go to a time-of-use default rate instead." That was quite surprising because that was sort of where we wanted to go and where we thought it made more sense to go, and we weren't sure why they suddenly just dropped one idea for another. . . .

As it has turned out, there are going to be trials of both and a chance to really evaluate both kinds of rates in a pretty structured trial. It's not fine with everyone, but I think it is a pretty good outcome to say, "Okay, here are these two fundamentally different kind of advanced rates that we could look at." . . . I think that is a good outcome to have everybody get some good information and give it a try.

Jackson: What we found out from talking with the industry was they felt like their needs weren't being addressed because they didn't have transparency into [specific] information. . . . It was hard [for the utility] to maneuver to get the answers to questions that they had; so it was impacting the speed at which they could do their business.

There was nothing deliberate about that; we just didn't know. So, it was like—okay, we respect the fact that you have those concerns. Is there an avenue for us to go forward [where] we can address those? Instead of this being contentious before the commission, let's find a path [where] we can sit down and have those conversations on an ongoing basis and address the problems proactively.

Stegall: The whole thing surprised me with the amount of issues that we did reach agreement on and the number of parties that ended up joining. I think where a lot of parties started out was not where they ended up, so I was actually pleasantly surprised by that.

It wasn't clear from the beginning who would be willing to compromise and who wouldn't. . . . It really came to be small bits of progress all built on top of each other, and honestly, we didn't know if it was going to work or not, really, until the end. There were some parties that just decided they were joining at the very end when we were editing the grammar of the settlement agreement and things like that.

Jackson: We evolved as we went through the process, and then at the very end—once we got to a settlement in principle and the outline—then you have to put together the settlement document itself, which, just to give you an order of magnitude, went from something like 15 pages to 85 pages. And everybody is weighing in on every single word and every single sentence. It takes a ton of after-hours work to pull together everything that was done in the meeting.

You have to pay just as much attention to that detail as you did when you were in the meeting. Otherwise, what ends up happening, with a group of people who don't 100-percent trust each other, malintent becomes the thought behind any of the changes from the discussions in the room to what is in the document.

Overturf: There was one night, at the very end, when we had a settlement document, and everybody went back and did edits on it and then sent it in.

We had four different redline versions, and we had it projected up on a wall and we were literally going through—20 lawyers in a room and a bunch of people on the phone—going through [the changes]. Should there be a comma here? Should “this” be an “an”? Should we make this a sentence or a new paragraph? That kind of monotonous detail. . . .

That was a really critical time for [WRA] since we had been involved throughout the whole process and

really felt like we had helped bring this thing into the world. We had spent so much time on this that it was like—this *will* be worth it. There were people coming in and saying, “Oh, I just have one little change, and I need to change this.”

**“If you read the settlement—
one of our commissioners made
the comment—every single
sentence had meaning.”**

—ALICE JACKSON

There was a lot of concern that—oh my gosh, have we done all this work for all these months and now it is going to get changed at the last minute in order to bring on another party? You are dealing with the pressure of the last minute where everybody is like—just

stop talking; we want to get this done. But it really did feel very critical to us that we maintained what we had agreed to earlier on in the process, even in the chaos of the last minute.

Jackson: If you read the settlement that is out there—I think one of our commissioners made the comment—every single sentence in the settlement had meaning.

Looking Toward Challenges Ahead

The final settlement document was filed with the Colorado PUC on Aug. 15, 2016.¹¹ The PUC issued its approval of the settlement on Nov. 9.¹² Less than a year later, the PUC approved a decision and application that took concrete steps toward implementing two elements of the agreement -- decoupling and grid modernization (see [Table 3](#)).

Overturf: Now the sheen has worn off a little bit and that foxhole comradery is dissipating, it will be interesting to see whether some of those more surprising things or the more ambitious things that we were able to get done as part of the settlement

agreement, whether they truly do get borne out over the next three to five years.

Cantwell: Whether it is really going to change the outcome of ... how things work, I think is less certain. I feel like the decks were totally stacked in favor of Xcel, always have been and perhaps always will be. They have—sitting in the room and then available on three or four floors of the office building—dozens and dozens, maybe hundreds of people at their beck and call to run analyses, to do legal work, to do economic modeling, to do whatever kind of expert analysis is needed. They have untold

11 http://coseia.org/wp2016/wp-content/uploads/2016/11/Non-Unanimous-Comprehensive-Settlement-Agreement_FINAL.pdf

12 http://coseia.org/wp2016/wp-content/uploads/2016/11/C16-1075_16AL-0048E_16A-0055E_16A-0139E-PUC-Settlement-Order.pdf



resources, and we have virtually none. We have volunteers.

So, to some extent, yes, they were willing to look at things, and they were willing to come back and drop some of the more onerous proposals like the grid use charge. But it sort of felt like when it really got to where they particularly cared, they were not willing to budge.

Figel: I think that we have built a framework for equity in renewable and solar planning for Colorado. The settlement was a tremendous success, and [demonstrates] Xcel’s leadership on introducing such a comprehensive low-income solar policy. We have opportunities though to improve [access] for low-income communities, to directly engage and provide feedback on the process and policies.

The capacity [for low-income programs] approved in the settlement represents about a twenty-fold increase of the low-income solar capacity that had been installed in Colorado up to that time. We were certainly happy with the outcome and the ability to bring major stakeholders and Xcel and other

advocacy partners to see our passion in advancing this issue.

But that was structured around a utility-led, low-income community solar offering and no other programs essentially available for low-income [customers]. We were put in a position where we kind of had to say, “Yeah, that’s a great initiative.” But we would also like to see X,Y and Z, and make sure that low-income customers have access to a wide variety of opportunities and solutions to access solar.

Stegall: I definitely think our minds are more open now to considering multiple cases at once or combining cases in ways that make sense, and trying to be more efficient about how we settle these things.

Jackson: Inside of our company, we do an employee engagement survey, and I had been leading the regulatory group for three years this past November. Each year, you get the report on your employees—are they satisfied essentially with the job that they are doing.

TABLE 3: 51ST STATE DOCTRINES AND COLORADO’S 2017 DECOUPLING AND GRID MODERNIZATION APPROVALS

DOCTRINE	APPROVAL PROVISIONS
PROMOTE EFFICIENCIES	<ul style="list-style-type: none"> ■ Increased customer access to usage data via AMI and Green Button to promote efficiency. ■ Advanced infrastructure to provide increased visibility, automation, and control, increasing operational efficiency, reliability, and greater DER integration.
CLEARLY DEFINE ROLES	
IDENTIFY PRINCIPLES OF RATEMAKING	<ul style="list-style-type: none"> ■ Revenue decoupling on trial basis for the next five years (includes residential and small commercial customers); aim is to break link between utility’s incentive to sell more electricity and its ability to cover fixed costs.
FOSTER CUSTOMER CHOICE	<ul style="list-style-type: none"> ■ Customer web portal allows access to usage data and provides data to third parties via Green Button for monitoring and control of usage. ■ AMI and home area network rollouts could facilitate more customer options, including new products, services and rate structures.

Source: SEPA, 2016, The 51st State—Blueprints for Electricity Market Reform, <https://sepapower.org/resource/blueprints-for-electricity-market-reform/>

2016 was a hard year for us. We had a lot of work, a lot of extra-long hours. We got the survey results, and I was absolutely floored. My people loved what we did last year. That is what is so amazing to me. It took a ton of effort to get it done; the outcome is one that is going to still take a lot of effort going forward because it doesn't just stop with the settlement that we reached last year. There is a lot of implementation.

We worked really hard last year. We did things outside of the box that we have never done before. And we ended up in a place where not only are we happy, we are hopeful on where things are going to go in the future for the business, the people that participated in it are really satisfied with how they got to be involved and what we are doing.

Takeaways, Part 1: What Would You Do Differently?

The interviews for this report were all done six to eight months after the settlement—enough time for those involved in the negotiations to gain some perspective on what worked well, and what they might have done differently.

Stegall: We could have been more organized from the beginning, and I think those that are in a similar situation might have the opportunity to learn from [a] case like this—to become better organized . . . on how to share feedback, how to move through the different issues, how to break up the issues into smaller issues, with focused subgroups. Those sort of logistical efficiencies would have been good to have from the beginning.

Cantwell: I felt so mismatched because I am not an economist, I am not a rate analyst. And I think that absolutely we critically needed to have better data and analysis to respond to the utility. Not even necessarily to counter their numbers or to say that their analysis was wrong, but to have experts who could respond and reply to their expert analysis of some of these complicated things. . . .

I really think there needs to be public funding of research for intervenors. We had some access to

a SEIA [Solar Energy Industries Association] expert who was hired to do some of this analysis, but he was doing many other things and had very limited time. There just needs to be a greater equity in

terms of who has resources to analyze what is on the table, let alone to advocate or . . . just to actually understand what we are talking about in some of these highly complex ratemaking issues.

Overturf: I would have required people to put their asks on paper a lot earlier, so that we had more concrete

things to discuss. I would have brought more people into the room and provided more time and space for us to talk in smaller groups, but have everybody be there at the beginning so that we weren't rehashing things every time we brought somebody new into the conversation.

I think the other thing would be at a certain point, you have to just cut people loose. If somebody is telling you that they are not interested in where the conversation is going, that they don't like what you are agreeing to, I think at a certain point, you have to say, "OK, well then, go away and let those of us that are invested in this process figure it out."

"Oh my gosh, have we done all this work for all these months and now it's going to get changed to bring on another party? You're dealing with the pressure of the last minute."

—ERIN OVERTURF

Takeaways, Part 2: What Others Can Replicate

The impact of the Colorado settlement continues to unfold in the ongoing transformation of the energy sector there and elsewhere across the country. Looking back, individual participants spoke differently about their key takeaways from the process, in terms of the tools, foundation and inspiration it can provide others.

The process also left unanswered questions, such as whether siloed, legalistic regulatory proceedings are compatible with the complex, interrelated issues about energy market change now emerging across the country. At the same time, participants agreed that Colorado showed that compromise and collaboration are possible if people are willing to try.

Jackson: I think we were in the right place at the right time with the right people. . . . I think they were ready to try because there was a lot of animosity, and people were tired of it. People were ready to move to a point of—okay, where do we have spaces that intersect, that we can make work.

Overturf: So much of this, and the ability to get this done, had to do with individual people, individual relationships between people, and trust and respect of those human beings that are sitting in that room. . . . I would just highlight as being really important to getting this all done was the combination of humor and self-awareness from a majority of people in that room. The ability to tell jokes, laugh at each other's jokes, make fun of ourselves, make fun of each other—to me, that kind of humor is an absolutely critical part [of] seeing each other as human beings.

So, yeah, I would say that sending people random text messages of turkey emojis is a legitimate negotiating strategy. That human interaction with people is priceless.

Cantwell: It definitely made a lot more sense to do this—as hard as it was and as grueling as it was—than to litigate for months and months.

I think that really trying to take these kind of issues through a PUC process, it just feels so mismatched for the issues at hand. The whole system of PUCs and this sort of high priesthood of 50 lawyers who understand what is going on is not the best way to be making policy on these critical public issues. It needs to be much more open.

So I guess what I would hope is that this would at least pave the way for a more open process so that the next time maybe it is not a private negotiation with a handful of people. It is really something that is beginning with some principles and some goals and some agreed-upon outcomes; that it is therefore put in the public arena before it is a proposal by the utility that gets litigated at a PUC.

Overturf: It really does highlight that going through the super legalistic, litigated proceeding—which is how we do most stuff in Colorado—is not conducive to the actual interpersonal interaction that is critical to understanding these complicated issues. This stuff is so hard to understand, and I know for me, I need to sit down and talk to somebody about it and just be able to ask questions and figure out what is going on and why they think the way that they think. That kind of conversation, you just can't have [it] in the context of a litigated proceeding.

It raises questions for me. Is this regulatory structure that we have really conducive to making the best decisions that are going to work for the most people? I don't know. That makes me super uncomfortable. As a lawyer, I love rules. But I wonder if that is not the best way to really craft good, smart policy.

Figel: So many of these processes are about implementing policies or programs that are going to impact ratepayers directly or are going to be opportunities for them. It is so important to include not just the most powerful interests in those

discussions, but especially ratepayers—like low-income—who would not otherwise be represented in these conversations or even have an idea that they are going on. I think that that is something that is a great takeaway from this process and hopefully will be a blueprint for future discussions like this.

Stegall: The facilitator role is really important; and having the right person in that role to set the tone, that was really important to set that respectful tone. . . . A lot of times, the meetings weren't really so much a back and forth between Xcel and parties. It was parties discussing their positions and issues, and the company taking notes on that and then taking it back internally and coming back to the group with a counterproposal. That helped keep things respectful and low key. I mean, there were some arguments at times, but that was one method [Xcel] used that I thought worked pretty well—being good listeners. . . .

Some of the processes could be replicated in terms of how meetings were run, how feedback was shared, how topics were broken down, you could probably come up with a framework and tools that could help other states move through something like this in the future, based on the lessons learned in this case.

I think that [this] settlement also could provide inspiration. Just seeing this example out there of a

set of stakeholders with diverse interests finding middle ground could inspire parties in other states to seek a compromise. Because a lot of times, parties assume it is not possible, which is exactly how I felt at the beginning of this process. But you don't really know until you try. That is what I learned. We proved it can work.

Jackson: I refer to this settlement as foundational for the future. You have to have a baseline in order to start the change, and that baseline has to be established by people with not necessarily common viewpoints, but common goals. What this particular settlement does is, it is foundational for a future [where] we can achieve those three outcomes we were focused on: embracing technology, giving our customers choices, and ensuring that we are being economically viable in the process.

Overturf: It is really a testament to what is possible, and the things that you can get done if you are willing to engage in meaningful, honest ways. The whole net metering thing is one of, if not the most, contentious thing going on in the energy world right now. It has been set up as this clash of civilizations—utilities versus distributed generation, and who will win. And it doesn't have to be that way. There are solutions that can work for everybody. We just have to find them.

“You have to have a baseline in order to start the change, and that baseline has to be established by people with not necessarily common viewpoints, but common goals.”

—ALICE JACKSON





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