

A photograph of a city street decorated with Colorado state flags and string lights. The flags are blue with a white vertical stripe and a red circle containing a yellow sun. The string lights are yellow and hang in rows across the street. In the background, there are brick buildings and a clock tower with a sign that says "THE MARKET".

Annual Report

OFFICE OF

Consumer Counsel

2016
2017



COLORADO
Department of
Regulatory Agencies



A Message From The Director



Cindy Schonhaut

*Director, Colorado Office of
Consumer Counsel*
Colorado Department of Regulatory Agencies

The Office of Consumer Counsel (OCC) has a unique and critically important statutory charge—to protect the interests of residential, small business and agricultural consumers of electric and natural gas services throughout our State.

The OCC is unique within the Department of Regulatory Agencies (DORA) as we do not license or regulate, nor do we enforce laws and regulations. Rather, we advocate for residential, small business and agricultural consumers, as

classes in energy utility cases that go before the Colorado Public Utilities Commission (PUC).

During fiscal year 2016-2017, on a budget of approximately \$1.7 million, we managed to save consumers \$97.7 million in energy rate hikes through singular and joint efforts with the staff of the PUC. Since the OCC was created in 1984, it has helped to save consumers approximately \$2.06 billion on their energy bills.

This fiscal year, we participated in several major cases, some of which led to settlements. In particular, a settlement reached with Xcel and other parties to three contested cases resulted in better outcomes for consumers. One significant outcome of the settlement was the establishment of four stakeholder groups to work on an on-going basis to resolve complex and critical issues.

Participation by the OCC in this stakeholder process allows residential, small business, and agricultural consumers to have an active voice at the table when consequential decisions are made.

Moreover, in an important litigated case regarding electric rates in Southern Colorado, through effective advocacy on behalf of consumers, the OCC was able to drastically reduce the rate increases sought by the utility, Black Hills Electric.

As Director of the OCC, I am proud to know that our “small but mighty” staff of seven and our Utility Consumers’ Board are diligently focused and dedicated to protecting the interests of Colorado’s energy utility consumers.

The success stories, impacts, and accomplishments outlined in this report represent just a portion of their hard work. The accomplishments of this past fiscal year only reinforce our passion for consumer protection and demonstrate just how seriously we take our role in serving as the voice for Colorado energy utility consumers.




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From top left: Hector Arreola, Scott England,
Ron Fernandez, Cory Skluzak

Bottom from left: Chris Neil, Cindy Schonhaut,
Tim Villarosa





From DORA's Leadership

At DORA, we believe in promoting a Colorado in which consumers and service providers partner to forge common successes. With a sharp focus on streamlining and modernizing processes and enhancing end-to-end customer experiences, we strive to advance an environment and regulatory framework where both businesses and consumers are treated fairly and the economy thrives. DORA looks to deliver the fastest, easiest, and most enjoyable experience to our customers—the businesses and individuals who interact with us to get the services they need. We are committed to protecting customers, reducing unnecessary “red tape,” and ensuring that businesses thrive in an environment that protects consumers.

Division Mission Statement

The Colorado Office of Consumer Counsel ensures consumer protection by representing and advocating for residential, small business, and agricultural consumers in electric and natural gas proceedings before the Colorado Public Utilities Commission.



Overview

DORA's Mission, Vision and Core Values

OUR MISSION

Consumer protection is our mission.

OUR VISION

To ensure Colorado has an effective regulatory landscape where both consumers are protected and businesses can thrive in a competitive and fair marketplace.

OUR CORE VALUES

DEDICATION

We are dedicated to serving the people of Colorado. We know that with sensibility, patience, and a positive attitude, we can do great things. We are committed to making our strengths stronger, focusing on the added value we bring to state government.

OPENNESS

We know that the best outcomes are built from including diverse perspectives in decision making. We seek and provide honest feedback, learning from mistakes and successes, and building trust by listening.

RESPECT

We treat our team members, customers, and stakeholders with respect and sensitivity to different views and interests. We recognize people for their contributions, and approach every interaction with mindfulness and presence.

ACCOUNTABILITY

We are committed to personal responsibility, demonstrating credibility and sincerity in our work. The strength of our Department is built upon the trust and confidence we inspire in our community, and we pledge to uphold that trust through our professional conduct.





About the Office of Consumer Counsel

The OCC division within DORA represents residential, small business and agricultural consumers as classes in electric and natural gas proceedings before the PUC. The OCC does not regulate; it advises and advocates on behalf of consumers. The OCC helps consumers by advocating for lowering or eliminating proposed utility rate increases and by working to ensure that utility rates, regulations and policies are more equitable for residential, small business and agricultural consumers.

The OCC was created by the legislature in 1984. In the 2015 legislative session, the passing of SB 271 (the OCC's sunset review) eliminated telecommunications from the OCC's advocacy.

The OCC continues to represent the public interest and the interests of its constituency for energy related issues.

Process

Unlike other divisions at DORA, the OCC has no direct regulatory authority and promulgates no rules. The division intervenes in proceedings that involve a number of energy related issues including rate changes, rulemaking, service modifications and certificates of public convenience and necessity. Although the OCC is charged with representing consumers before the PUC, it is prohibited by statute from representing individuals in complaints against utilities.

Most of the OCC's work is done in proceedings before the PUC covering various aspects of a regulated utility's business. The division employs financial, economic, engineering and policy analysts, and other professionals to analyze utility rate and service information.

OCC staff examines the technical evidence filed by utilities, provides expert testimony, cross-examines witnesses, makes legal arguments and represents consumers in settlement negotiations.

About the Utility Consumers' Board

The OCC has a statutorily created eleven-member Utility Consumers' Board (UCB) that meets six times a year. Seven of the members are appointed by the Governor; the President of the Senate, Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives each appoint one member.

Governor appointments represent each of the seven Congressional districts. No more than four board members appointed by the Governor can be affiliated with the same political party, at least one board member must be actively engaged in agriculture as a business and at least two members must be owners of a small business with 100 or fewer employees. The UCB advises the OCC on proposed legislation, provides policy guidance and assists in evaluating the performance of the division.

TERMS USED IN THIS REPORT

Public Utilities Commission (PUC) – the agency under DORA that regulates utilities in Colorado.

PUC staff – the employees within the PUC who gather evidence and make recommendations to the Commission and also serve as a party in cases.

The Commission – three PUC Commissioners appointed by the Governor who make decisions on PUC cases.

Sole Savings – Reductions in proposed utility rate increases for consumers that are attributable to OCC staff advocacy.

Shared Savings – Reductions in proposed utility rate increases for consumers that are attributable to advocacy by OCC and PUC staff.

FY 2016-2017 Highlights



XCEL/PUBLIC SERVICE RUSH CREEK WIND PROJECT SETTLEMENT

PSCo filed an application on May 2016 for a project to build two sites that would produce a total of 600 megawatts (MW) of wind energy which Xcel Energy would develop, own and operate. The projected cost was more than \$1 billion. Supporters of this project said it promoted economic development and would further reduce Colorado's carbon emissions.

At the end of August 2016 the OCC, along with 13 other parties, were able to reach a settlement agreement. The OCC was able to insert some important consumer protections in the settlement agreement that lessened the impact on ratepayers and increased the long term savings to consumers.



XCEL ENERGY DEPRECIATION SETTLEMENT

Xcel Energy requested an estimated change in the company's annual depreciation and amortization expense using the proposed depreciation rates and projected plant costs as of January 1, 2018, which would have been an increase of \$47.3 million. Due to the recent retirement of the Craig coal-fired electric generating station (announced September 16, 2016), the estimated change to the proposal was a decrease of \$1.8 million, which totaled a request of \$45.5 million.

After the OCC filed its position through answer testimony, the parties convened in settlement discussions that resulted in a total decrease of \$14 million of which \$4.2 million is attributed to the OCC's advocacy.



PUBLIC SERVICE 2017- 2018 DEMAND-SIDE MANAGEMENT (DSM) PLAN SETTLEMENT

In July 2016, Xcel filed its combined gas and electric 2017/2018 DSM plan which proposed to offer a variety of direct and indirect DSM programs targeted for residential, small business, government and low-income customers. The plan proposed total expenditures on electric energy efficiency of \$80.3 million for 2017 and \$77.7 million in 2018. The second aspect of DSM is Demand Response in which the proposed cost for 2017 would be \$19.2 million and \$20.6 million for 2018. Projected electric energy savings would be 76 MW and 74 MW in incremental demand reductions respectively.

Black Hills Electric Phase I Electric Rate Case

In May 2016, Black Hills filed its proposal to increase revenues in large part to bring into rate base the costs of its new gas-fired generating unit (at the Pueblo Airport Generating Station) which would provide capacity when demand for electricity in the service territory peaked. Prior to the Commission's decision in this case, the cost of this investment was recovered through a rider (or line item) on consumers' bills based on the Clean Air Clean Jobs Act. In this case, Black Hills proposed to put the plant into service at which time Black Hills expected the costs to be included in base rates. Black Hills' proposed rate increase was to recover \$8.9 million in claimed costs.

The outcome was momentous for consumers. The PUC decreased Black Hills' request by about 87 percent, or \$7.7 million annually, down to \$1.2 million.

The Commission made numerous decisions based on the recommendations of both the OCC and PUC staff that resulted in these significant cuts to the proposed revenue requirement. The OCC will share half of the overall savings with PUC staff, which amounts to \$3.9 million.

Black Hills requested the Commission reconsider its decision in this case, in which the Commission denied. On July 10, 2017, Black Hills filed an appeal of this case with the Colorado District Court.



THE HIGHLIGHTS OF THIS DECISION ARE:

✓ **The PUC** decided that the costs of the new generating facility will be recovered not through base rates, but instead through a rider on consumers' bills. That decision benefits consumers because their fixed monthly charges will not increase as a result of this decision.

✓ **Black Hills** proposed a \$5 monthly increase for residential customers and a \$17.31 monthly increase for small business customers. Following the Commission's decision in November 2016, and after a technical conference held in December 2016, the rate impact of this filing changed to a monthly increase of \$0.63 for residential customers and a monthly increase of \$3.34 for small commercial customers.

✓ **The Commission** agreed with the OCC's arguments that funds Black Hills received from the federal government through the stimulus act (the American Reinvestment and Recovery Act), amounting to \$3.8 million, are not a cost to be recovered from consumers. Previously, the PUC had allowed Black Hills to recover 50 percent of those funds from ratepayers. The new ruling was a significant win for the OCC.

✓ **Black Hills** had proposed a Return on Equity (ROE) of 9.83 percent, which was its previous ROE. The Commission instead approved an ROE of 9.37 percent. With this ROE, a reduced cost of debt and a revised capital structure, the PUC was able to significantly decrease the revenue increase Black Hills had sought.



Xcel Energy's Global Settlement Stakeholder Group Process Established

The OCC reached a settlement with Xcel Energy and various parties which settled issues raised in three major cases. This settlement was approved by the PUC. Moreover, the settlement created four stakeholder groups to meet to discuss and resolve several important issues arising from implementation of the settlement. This stakeholder group process is new to Colorado.

THE STAKEHOLDER GROUPS ARE:

- **Pilot and Trial Program Stakeholder Group** to address new rate designs, such as Time-of-Use;
- **Distribution Grid and Interconnection Stakeholder Group** to focus on auxiliary service and interconnection rules;
- **Future Voluntary Renewable Programs Stakeholder Group** to address the development of programs that will allow customers to contribute voluntarily to meaningful carbon emission reductions from Xcel's electric generation fleet; and,
- **Existing Voluntary Renewable Programs Stakeholder Group**

The three cases that were settled by the parties were:

- (1) a **Phase 2 Electric Rate Case** in which Xcel sought to implement a new rate design for its customers;
- (2) a proposal by Xcel for a retail solar offering, known as **Renewable*Connect** (formerly Solar*Connect); and,
- (3) a compliance filing in which Xcel established its conformity with constitutional and statutory **Renewable Energy Standards**, known as the **Renewable Energy (RE)** case.

Collectively, these three cases encompassed significant issues regarding electric service provided by Xcel in Colorado.

PHASE 2 ELECTRICAL RATE CASE

In the Phase 2 Electric Rate Case, Xcel initially sought to increase residential customers' fixed monthly fees. In the settlement, that proposed increase was eliminated. Xcel also sought to establish Time-of-Use rates which would vary the price paid by consumers for electricity (kilowatt hours) depending on the time of day the energy is used.

The concept is intended to address the fact that electricity usage is at its highest at certain times of the day. If electricity used during peak hours (for example between 2 p.m. and 6 p.m. weekdays) is priced higher than electricity used in non-peak hours, the theory holds, consumers will use less of the higher priced electricity.

The benefits of such shift in usage could lead to less need for electricity and a reduced need to build more electricity generating plants and, therefore, to lower costs in the future and reduced emissions. However, many consumers do not have the option to shift the time of day in which they use electricity and, as a result, would see increased bills.

In the settlement, the OCC agreed to a trial of Time-of-Use rates as well as a pilot for Residential Demand Time-Differentiated Rates. As a result, the impact of implementing these new rate designs will be thoroughly analyzed and studied before December 2019, when, under the settlement, Xcel can propose permanent changes to its rate design.

RENEWABLE* CONNECT

In the Renewable*Connect case, Xcel sought to offer its customers a choice to have their electricity produced by renewable resources, in this case solar. Because this offering would compete with independent private businesses offering roof-top solar and Community Solar Gardens in Colorado, the structure of Xcel's offering was highly contested. In the settlement, the parties agreed to limit the new resources used under this program to 50 MW.



The 2017 RE Plan

establishes a framework for the expansion of renewable energy resources

RENEWABLE ENERGY STANDARDS

In the RE case, Xcel sought approval of its 2017 plan for renewable energy and proposed a three-year plan to add renewable energy to its system to meet or exceed Colorado's constitutional and statutory Renewable Energy Standard by 2020. The plan proposed increasing MW capacity for Xcel's Solar*Rewards and Solar*Rewards Community programs, lowering costs for participating in its Windsource® program and launching its Recycled Energy Program developed to generate energy from otherwise wasted heat or steam.

In the settlement, Xcel agreed to expand the capacity in the RE Plan beyond what its originally proposed. The OCC agreed with the parties that the 2017 RE Plan establishes a framework for the expansion of renewable energy resources in a measured and prudent manner that both addresses growing customer preferences for renewable energy offerings and adds renewable energy to Xcel's system in an economically reasonable way.

Moreover, the settlement includes the beginning of a partnership between Xcel and the Colorado Energy Office to create a low-income rooftop solar offering intended to: (1) reduce participating low-income customers' bills, thereby decreasing their electric energy cost burden; and, (2) increase access to distributed generation for customers that currently have limited opportunity to utilize voluntary renewable energy programs.

As a result of the settlement of all three cases, the parties agreed to participate in the stakeholder groups to address various complex issues on an ongoing basis. These groups are designed to identify and analyze issues leading to additional actions in support of the settlement — actions which may require PUC approval.

The OCC's continuing participation in the four stakeholder groups enables the office to effectively engage in essential analyses of Xcel's offerings and to provide the important perspective of residential, small business and agricultural consumers.



Success By The Numbers

- **32% in rate increases avoided** due to OCC involvement
- **Annual Budget** = \$1.68 million
- **Sole Savings** (savings established by OCC only) = \$15.96 million
- **Shared Savings** (savings established shared with PUC Staff) = \$81.75 million
- **Return on Investment:** The ratio of the amount the OCC saved consumers to every dollar spent
 - FY17 = 58 to 1
 - Four FY Rolling Average (FY14-FY17) = 59 to 1

32%
rate increases
AVOIDED
due to OCC
involvement

**\$81.75
Million**
SHARED SAVINGS
with the
PUC Staff

**FY17
ROI**
58 to 1 ratio
dollars spent

Annual
Budget
**\$1.68
Million**



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