

Presentation to
Colorado Coordinated Planning Group
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Morey Wolfson
Senior Transmission Policy Advisor
Colorado Governor's Energy Office
(Liaison to the CCPG)

Briefings on:

- Colorado Clean Energy Development Authority
- SB11-45 – Regarding the creation of a Colorado Transmission Siting Task Force

CEDA

2007 –

CEDA was enacted into state law in May, 2007 pursuant to HB07-1150.

By statute, CEDA is “an independent public body and corporate.”

“The authority shall be a political subdivision of the State, shall not be an agency of State government, and shall not be subject to administrative direction by any department, commission, board, or agency of the State.”

CEDA

The 32-page statute established broad goals, including energy efficiency, storage, pipelines, transmission, solar, and studies.

No funding was provided for CEDA's operation.

Of key significance - a defect existed in the statute, as it contained a clause that prohibits CEDA from making "a direct commercial loan to a user." Expert legal and business advice indicated that this clause was a show-stopper, nullifying CEDA's ability to help with project finance.

The CEDA Board determined that until the defect is remedied through legislation, the Board would convene meetings to discuss utility-scale renewable energy (RE) and transmission development in Colorado and the West.

2008 –

The Board offered legislation to remove the statutory defect.

However, that effort did not pass.

2009 –

The Board reached an agreement with representatives from the banking community that removed that community's opposition to a legislative remedy if the Board would limit its activity to financing transmission.

This agreement caused Xcel Energy to oppose CEEDA's ability to help finance "backbone" transmission. Xcel proposed that if the Board agreed to submit the selected transmission projects to a utilities' right of first refusal (RFR), the company would not oppose the elimination of the prohibition on commercial lending.

2009 –

Despite the Board's unanimous vote of disapproval of the proposed RFR, Xcel pressed for a modification to CEDA's statute to include a RFR.

When it became apparent that Xcel had secured the votes in the legislative committee of reference, CEDA's legislative sponsor, who was seeking to remove the prohibition on commercial lending, had to pull the bill.

2010 –

The Board recognized that an agreement with Xcel was required to remedy the prohibition on commercial lending. An agreement was achieved when the Board approved legislative language that limits CEDA's scope to only providing financial assistance for interconnection facilities (primarily generation tie-lines).

The agreement resulted in the passage of HB10-1182, in April 2010. The Act includes these amendments to the CEDA statute:

- 1) CEDA's scope is limited to financing electric power interconnection projects.
- 2) The prohibition on commercial lending is eliminated.

The Attorney General's Office issued a 15-page informal opinion on March 1, 2011, concluding:

1. Voter Approval - CEDA is not required to obtain advance voter approval if CEDA acts solely as a "conduit financier," as long as CEDA is not pledging its own revenues for future years (as opposed to the revenues being pledged from the third party) and is acting strictly as a conduit for the actual financing plan. However, the conduit financing plan will still need to go through a TEFRA Hearing process.
2. General Assembly Pre-Approval - Even if CEDA acts solely as a "conduit financier" and issues bonds, General Assembly pre-approval is required. § 40-9.7-108(3)(c), C.R.S. (2010). General Assembly approval will also be required if CEDA acts solely as a "conduit financier" and the plan of finance requires annual appropriation from the General Assembly.
3. Reserve Funds - Financial obligations issued by CEDA and secured by a reserve fund funded with bond proceeds are not considered a debt of the State.

The Board has had many interactions with utility-scale renewable energy independent power producers.

Discussions center on financing, timing, and other operational issues.

To help the Board with an illustrative context, NextEra Energy presented the following information:

	Base	Savings via CEDA (1)		
		5%	10%	15%
Capital Costs (\$ million)				
200 MW Wind Farm	\$400.0	\$400.0	\$400.0	\$400.0
50 Mile Gentie	\$25.0	\$23.8	\$22.5	\$21.3
TOTAL	\$425.0	\$423.8	\$422.5	\$421.3
Savings		\$1.3	\$2.5	\$3.8
Percent Savings		0.3%	0.6%	0.9%
Power Price (\$/MWh)				
200 MW Wind Farm	\$51.76	\$51.76	\$51.76	\$51.76
50 Mile Gentie	\$3.24	\$3.07	\$2.91	\$2.75
TOTAL	\$55.00	\$54.84	\$54.68	\$54.51
Savings		\$0.16	\$0.32	\$0.49
Percent Savings		0.3%	0.6%	0.9%

(1) Percent reduction in gentie cost due to lower cost money via CEDA

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7
Development							
Utility Bid & Selection Process							
Project Financing & Construction							

Potential CEDA general direction going forward:

Explore whether it is feasible for CEDA to help with refinancing existing generation tie-lines:

- Peetz Logan (NextEra) 85 miles of 230 kV
- Colorado Green 44 miles of 230 kV
- Cedar Point (RES America) 42 miles of 230 kV
- Cedar Creek 70 miles of 230 kV

CEDA potential general direction going forward:

- Over the summer, draft legislation that would make CEDA viable and useful.
- Present a draft bill to legislative sponsors in the fall of 2011.
- Introduce the bill in 2012 asking for what may amount to an “up or down” vote.
- If the vote is down, then the legislature should sunset CEDA.
- If the vote is up, then CEDA will have the value-added to bring to the table regarding project finance.

SB11-45

A bill for an Act concerning a streamlined process for securing governmental approval for the siting of electric transmission facilities, and, in connection therewith, creating a task force.

SB11-45 – Regarding the Creation of a Colorado Transmission Siting Task Force

- **SB11-45 – A bill to create a Transmission Siting Task Force**
- Summarized History
 - 01/19/2011 Introduced In Senate - Assigned to Agriculture, Natural Resources, and Energy + Appropriations
 - 02/17/2011 Senate Committee on Agriculture, Natural Resources, and Energy Witness Testimony and/or Committee Discussion Only
 - 02/24/2011 Senate Committee on Agriculture, Natural Resources, and Energy Refer Amended to Appropriations
 - 03/04/2011 Senate Committee on Appropriations Refer Unamended to Senate Committee of the Whole
 - 03/08/2011 Senate Second Reading Laid Over Daily
 - 03/11/2011 Senate Second Reading Passed with Amendments
 - 03/14/2011 Senate Third Reading Passed
 - 03/17/2011 Introduced In House - Assigned to Transportation + Legislative Council
 - 03/23/2011 House Committee on Transportation Refer Amended to Legislative Council
- **03/23/2011 House Committee on Transportation Refer Amended to Legislative Council**
- **04/19/2011 House Committee on Legislative Council Refer Amended to House Committee of the Whole**
- **04/25/2011 House Second Reading Laid Over Daily**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 4 of title 40, Colorado Revised Statutes, is amended by the addition of a new section to read:

40-4-119. Siting of electric transmission facilities - task force - repeal.

Legislative declaration. The general assembly finds, determines, and declares that the development of new electric transmission facilities is necessary to promote the development of additional clean and renewable electric generation resources, Colorado's energy security, and the state's long-term economic growth.

The siting and permitting of electric transmission facilities is currently subject to various state and local government requirements.

Because electric transmission facilities often traverse multiple jurisdictions, compliance with multiple requirements creates the potential for permitting delays or inconsistent decisions.

It is, therefore, in the state's interest to consider opportunities to improve existing siting and permitting processes applicable to electric transmission facilities, including the possible establishment of a single, statewide siting and permitting process for such facilities.

Task force and report.

(A) There is hereby created the task force on statewide transmission siting and permitting, also referred to in this section as the "task force."

The task force shall make recommendations to the governor and the General Assembly regarding Colorado's existing statutory and regulatory framework applicable to the siting and permitting of electric transmission facilities as well as opportunities to improve that framework.

The task force shall take testimony on the topics listed in subsection (4) of this section and shall report to the governor and the general assembly on such testimony and **recommendations no later than December 1, 2011.**

Each recommendation made by the task force requires the affirmative consent of a majority of its members and may be accompanied by a minority report, as appropriate.

(B) The task force shall hold at least four meetings, which shall be open to the public.

The task force shall elect a chair and a vice-chair from its members at its first meeting. The task force shall solicit and receive comments from members of the public, which must include an opportunity for Colorado residents to submit written comments to the task force. The task force may determine the manner in which such comments are received.

(C) the task force shall consider and give weight to public comments received during the public hearing process, as well as written comments from affected counties, cities, electric utilities, other electric power providers, customers, environmental groups, and other interested stakeholders.

(A) The task force consists of sixteen members as follows:

(I) the Director of the Commission , or his or her designee, who shall convene the task force and who is authorized to contract with a mediator or other third party to facilitate accomplishment of the task force's duties;

(li) eight members appointed by the Governor as follows:

(A) one member representing cooperative electric associations that distribute electricity;

(B) one member representing cooperative electric associations that generate and transmit electricity;

(C) two members representing investor-owned electric utilities;

(D) two members representing municipally owned electric utilities;

- (E) one member representing renewable energy electric generation interests; and
- (F) one member representing large commercial consumers of electricity;
- (ii) one member appointed by the Speaker of the House of Representatives, who must not be affiliated with any of the groups represented by other members of the task force;
- (iv) one member appointed by the president of the Senate, who must not be affiliated with any of the groups represented by other members of the task force;
- (V) two members representing the interests of Colorado municipalities, appointed 1 by the executive director of the Colorado Municipal League or its successor organization;
- (Vi) two members representing the interests of Colorado counties, appointed by the executive director of Colorado Counties, incorporated, or its successor organization; and (Vii) the director of the Governor's energy office created in section 24-38.5-101, C.R.S., or his or her designee.

(B) The appointing authorities shall make their appointments within thirty days after the effective date of this section. The official who appointed a member whose absence results in a vacancy shall fill the vacancy by appointment.

(4) **Scope of inquiry.** At a minimum, the task force shall take comments on the following topics:

(A) an inventory and evaluation of Colorado's current siting and permitting framework for electric transmission facilities, including its benefits and shortcomings;

(B) research into examples of how other states approach siting and permitting of electric transmission facilities;

(C) identification of possible models for improving Colorado's existing siting and permitting processes applicable to electric transmission facilities;

- (D) Recommended actions to streamline siting and permitting processes applicable to electric transmission facilities, including a balancing of environmental, land use, and community effects with transmission project costs and schedule risks;

- (E) An examination of the advantages and disadvantages of a statewide transmission siting and permitting framework for electric transmission facilities; and

(F) An examination of the political acceptability of, and potential strategies for, creating a state-level siting entity.

(5) **Funding.** (A) The commission may accept private gifts, grants, and donations for the purpose of providing support to the task force to perform its responsibilities. The commission shall transfer all such gifts, grants, and donations to the state Treasurer, who shall credit them to a separate account, which is hereby created, in the public utilities commission fixed utility fund created in section 40-2-114.

(B) the commission is not required to solicit gifts, grants, or donations from any source for the purposes of the task force.

No general fund moneys shall be used to pay for any expenses of the task force.

(C) If, by June 1, 2011, moneys in the account have not reached an amount sufficient to pay the expenses of the task force:

(i) the task force shall not meet or undertake any other duties pursuant to this section;

(ii) the commission shall return to each grantor or donor an amount equal to such grantor's or donor's contribution; and (iii) the state treasurer shall transfer the interest, if any, earned from the investment of moneys in the account to the general fund.

(6) **Repeal.** This section is repealed, effective December 31, 2011.

Thank You

Morey.wolfson@state.co.us