Answers to Frequently Asked Questions About 2C

These are organized by the following categories of questions: Endorsements, Why NO, Climate, Cost, Competition, Community, Local Power or Facts, and Rebuttal. Scroll to find the category of interest.

ENDORSEMENTS

Q: Does Governor Polis endorse 2C?

A: **No.** The Governor's Office says there are some good elements in the agreement, but the Governor does not endorse the ballot issue. Some who favor 2C seek to gain support by misleading voters about Polis' position.

Q: Do Senator Fenberg and Representative Hooton support NO on 2C?

A: **YES!** Both Sen. Steve Fenberg and Rep. Edie Hooton support a NO vote on 2C.

Representative Hooton: "The energy landscape is rapidly changing. We must be nimble and embrace 21st century solutions to climate change. 2C reinforces a 20th Century model that puts shareholder profits before the climate. Please join me in voting no on 2C."

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> — **Rep. Edie Hooton**

Q: Do any former Mayors support NO on 2C?

A: **Yes!** The last three former mayors as well as numerous former city council members also strongly support NO on 2C: Suzanne Jones, Susan Osborne and Matt Applebaum. Also saying NO on 2C are Lisa Morzel, Crystal Gray, and Macon Cowles.

Q: Do any current city council members support a NO vote on 2C?

A: **Adam Swetlik, Junie Joseph** and **Mirabai Nagel** have endorsed NO on 2C. Swetlik and Joseph voted against sending 2C to the ballot and spoke in support of continuing the municipalization process. Nagel was absent during the council vote, but voiced her support afterwards. Other council members, while not endorsing 2C, thought it should be placed on the ballot for voters to decide. Only Mayor Pro Tem Bob Yates is actively campaigning to support a return to a franchise with the Xcel monopoly.

WHY NO on 2C

Q: Why should we vote NO on 2C?

A: **Competition** is emerging in Colorado. Based on concrete proposals received in response to July, 2020 RFP, **Boulder can very likely get a much better deal** from other providers. At least **two proposals offered to get us all the way to 100% renewable electricity by 2030 at a much lower cost than Xcel** will impose, and would provide financing for a local power utility.

Voting no on 2C maximizes local control and will give us the best options for our energy future. Knowing that Boulder is open to proposals from other energy providers might even motivate Xcel to come forward with a better deal. Voting no on 2C makes economic sense. **Going into franchise with Xcel is likely the most expensive route to reach Boulder's climate goals** with the least amount of control on rates and local decision-making.

This vote is about climate change action at the city level. Boulder is big enough to have an impact, yet small enough to be adaptive, innovative, and knowledgeable about the local conditions and local solutions. **Boulder can move forward faster and farther, leaving behind the profit-driven, non-competitive, short-term thinking of a regulated monopoly** where 80% carbon reduction and 65-70% renewable energy are considered generous concessions.

Q: What happens if we vote to stay out of franchise?

A: Services stay the same, more opportunities could likely be pursued.

1) We continue the same way we have for the last ten years. The lights stay on. Xcel continues to provide electric power at the same rates as the rest of its territory.

2) Xcel's energy mix, as determined by state law and the PUC, will be Boulder's energy mix until we change it.

3) The City can solicit more proposals to finance our municipalization effort and supply us with renewable energy.

4) The remaining $4M voters approved for exploring municipalization can be expended in 2021 and 2022.

5) The legal cases currently before the courts will continue to be adjudicated and we can make decisions based on the results.

6) The City Department of Climate Initiatives can continue at near 2019 level of spending without drawing from the General Fund.

7) Xcel is planning to file an electric resource plan (ERP) with the Public Utilities Commission (PUC) in March of 2021 covering the next 10 years to determine its energy mix, spending plans and expected rate impacts going forward. This information will help us evaluate Xcel as an energy supplier.

8) A change in political control in the executive and legislative branches of the federal government may create opportunities for increased renewable energy production and support for local entities that want to accelerate the rate of GHG emissions reduction.

9) Xcel can make another, better proposal for a future ballot.

Q: Why is voting NO on 2C a good negotiating strategy for Boulder?

A: **By voting NO on 2C, Boulder keeps a strong negotiating position.** We leave ourselves free to solicit competing offers from other wholesale power providers with plenty of time for them to respond. Meanwhile, Xcel is planning to file a 10-year plan with the PUC in March of 2021 covering energy mix, spending plans and expected rate impacts going forward. After that ruling is made, we can have information about Xcel's plans as well as several alternative proposals, some with financing, to compare before we choose. And in the light of competition, maybe even Xcel will give us a better offer. That is how competition works. And that is why voting NO on 2C is a good negotiating strategy.

Q: Why the big push by Xcel to get Boulder to sign a franchise agreement?

A: This is just the latest attempt in a long series of attempts by Xcel to convince Boulder to stop the exploration of local power options. Boulder is a small percentage of Xcel's business. Boulder continues to buy its electricity from Xcel when out of franchise, so there is no loss of revenue or profits. Xcel moved at this time for a number of possible reasons:

- Things are changing fast in the energy industry and Xcel doesn't want what happened to the telecommunications monopolies decades ago, and what is happening in other states now, to happen to them: competition.
- Bond rates are down, the cost of renewable energy is down, there has never been a better time for local power. Xcel wants to take us out of the local power market.
- Boulder represents a beacon of hope for others who want to get out from under Xcel's monopoly electric utility. Getting Boulder to return to the monopoly fold would demonstrate to others in the monopoly's territory that there is no way to escape.
- Xcel feels that Boulder is vulnerable right now. Boulder's financial position has been weakened by the pandemic and this is the monopoly's chance to use that fear to stop the municipalization effort. Although city leaders are concerned about potential impacts on the city budget due to COVID, the muni exploration is financed by the voter approved UOT and has little, if any, impact on the rest of the city's budget. Moreover, there are strong reasons to believe that a local power would save the community tens of millions a year in power costs. See here and here. In a recent update to Council, the Department of Climate Initiatives budget does not currently plan to take any money from the General Fund for muni exploration.
- The Settlement Agreement portion of this Franchise Agreement stops current local power court proceedings which means this is a pre-emptive "No Go" vote before Boulder has had a chance to get to an informed "Go/No Go" vote and leave the monopoly. Xcel would like to prevent Boulder from getting to a full "Go/No Go" vote.
- Another energy provider could come along and help Boulder get out of the monopoly and start a trend among communities served by Xcel.
- Cheaper power is coming and if a city leaves the monopoly and gets lower rates, it could start a movement by other cities to do the same.
- Xcel has stated their intentions to ask for future rate increases. Xcel wants to close the deal before these proposed rate increases are revealed to the broader public.

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>
> **— City Attorney Tom Carr, Aug. 4, 2020**

Q: Was this settlement agreement rushed through without a thorough review?

A: **Definitely.** *Boulder Beats* reporter Shay Caste writes "It was very fast, City Attorney Tom Carr said Aug. 4 — 'I would like a month to draft this agreement and we're doing it in a matter of days.' — and details were being hashed out right up until the city council finalized the ballot measures on Sept. 1." The Franchise and accompanying agreements are over one hundred pages long and very detailed. There are doubts that some of the key elements like opt-outs and contingencies around PUC approval have been properly handled in the agreement. **Voting NO on 2C would allow the city council, city staff, and the public to thoroughly review this important agreement before it is voted on.** The extent of the financial analysis of the agreements was a statement by staff that there would be a need for substantial resources.

Q: Doesn't the Franchise Provide for Several "Opt-Outs?" Why isn't that good enough?

A: **Yes, in theory**, the franchise provides for several opt-outs. The proposed Xcel Franchise Agreements are complicated. A great deal is not known about how Boulder could successfully end the franchise if Boulder decided to opt-out.

Over the past decade, Xcel has tied Boulder up in legal proceedings in an effort to block Boulder's efforts to exercise its Constitutional right to form a municipal utility. These lead many to strongly suspect that Xcel would make exiting the proposed agreements difficult – likely challenging Boulder in court and imposing significant charges.

CLIMATE

Q: Does the Partnership Agreement that is part of the Franchise Agreement obligate Xcel to add more renewable energy in Boulder?

A: **Absolutely not.** Adding more renewable energy sources of electric power within Boulder is on Boulder's wish list. The partnership agreement legally binds Xcel only to meet to discuss this wish list, nothing more. It is likely that Boulder project proposals that affect Xcel's energy load would also need to be approved by the Public Utilities Commission and Boulder would likely have to pay extra for any of these projects.

> *Electricity is still Boulder's largest source of GHG emissions (see here) and the key to addressing our impact on climate change is to reduce those emissions as quickly, as completely and as cost-effectively as possible.*

Q: Will the Franchise Agreement cause Boulder to achieve its goal of 100% renewable energy by 2030?

A: **No.** It's highly unlikely that Boulder would achieve its climate goals under franchise with Xcel. Within Colorado, Xcel is required by state law to reduce its greenhouse gases (GHG) by 80% compared to its 2005 pollution level by 2030. Alice Jackson, President of PSCo (Xcel's Colorado subsidiary), said that its 80% GHG reduction would be accomplished utilizing 65-70% renewable energy. This leaves Boulder substantially below its 100% renewable energy goal. For Boulder to replace Xcel's dirty electricity with 100% renewables, while still paying our Xcel bills, would be prohibitively expensive.

Q: Does the settlement agreement obligate Xcel to support changes to the 120% solar rule?

A: **No.** Changes to the Colorado Revised Statutes that set the 120% rooftop solar limit will require legislation. There is no legally binding requirement in the agreement for Xcel to do anything more than discuss what Boulder wants. If Xcel decides it doesn't want to support this change at the legislature for any reason, then that won't happen. The agreement will not force them to do so. Xcel will do what is in its own best interest.

Q: Won't we get 80% of the way to our goals with Xcel and isn't that enough?

A: **No.** Xcel's statewide legal commitment is to 80% carbon reduction; that is not the same as 80% renewable electricity, but rather is likely to be in the range of 65-70% renewable generation. Importantly, a recent study for Colorado said (on page 9) that the most cost effective way to meet Colorado's climate goals was to decarbonize over 90% of the electric system by 2030 and preferably to achieve an 98-99% electricity decarbonization by 2030. Xcel will be nowhere near that level of clean generation under their current plans. Negotiated interim targets are not of strong consequence since the state will already be monitoring Xcel's carbon reduction.

Q: Do we have to sign the franchise with Xcel to start getting carbon reductions?

A: **No, definitely not.** The City of Boulder has numerous energy efficiency and clean energy programs that have helped Boulder meet and exceed its climate goals and to reduce per capita carbon emissions by 55% since 2005 while the economy has grown substantially. Details can be found here. Electricity is still Boulder's largest source of GHG emissions (see here) and the key to addressing our impact on climate change is to reduce those emissions as quickly, as completely and as cost-effectively as possible.

Q: Isn't an 80% carbon reduction pretty good?

A: **Well yes**—it is good that Xcel has recognized the need to reduce its carbon emissions, **but** it would still be emitting about 6.9 million tons of greenhouse gases in 2030 if it meets the 80% reduction goal. The EPA GHG calculator reminds us that to offset 1 million tons of carbon dioxide emitted, we'd need to plant 15 million tree seedlings and keep them growing for 10 years. Therefore, Xcel's 2030 emissions would require over 100 million tree seedlings to be planted and kept alive just to offset Xcel's 2030 Colorado emissions—and to keep doing that going forward. Xcel can and should move much, much faster to avoid emissions of carbon dioxide and methane—and when it does so, it will be obtaining lower cost electricity! There are many alternative providers ready to bring Boulder high levels of renewable electricity (80-100%) and to help us reduce our climate impact much faster and at a cost savings compared to Xcel.

COST

Q: Is it true that the Franchise's Agreement will cost Boulder nothing?

A: **No. This is a falsehood.** The Franchise Agreement requires Xcel to provide specific data to Boulder for which Boulder will pay Xcel an unspecified amount determined by Xcel. If Boulder wants to pursue projects on its partnership wish list, like more renewable energy and microgrids, the settlement does not require Xcel to pay any of the cost. In fact, attaining the city's climate goals while under franchise with Xcel is probably the most expensive route. When City Staff commented on what would be needed for the City under the proposed franchise and Settlement Agreements, the staff merely stated that "substantial resources" would be needed.

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Q: Does Xcel pay the franchise fee called for in the Franchise Agreement?

A: **No.** Boulder ratepayers, not Xcel, pay the franchise fee. Xcel is acting as a fee collector on behalf of the city. Just as it does now with the 3% Utility Occupation Tax, Xcel will be collecting the 3% franchise fee from its customers and transferring those funds to the city. This is clearly stated in Article 4 of the proposed franchise. Where it says Utility Occupation Tax on your Xcel bill now, that line item on your bill will say Franchise Fee. The franchise does not affect City of Boulder finances one way or the other. The franchise fee is exactly equal to the UOT franchise fee replacement ratepayers currently pay and the city currently receives.

Q: Why do you say Xcel rates are going to go up when my bills are going down?

A: The average bill for electricity in Boulder has been going down slightly, but it's not because Xcel's rates have been falling. In fact, **Xcel's rates have been increasing:** There have been eight rate increases since 2007 with the last increase coming this year. Bills go down when customers invest in solar systems or energy savings like LED lighting, more efficient equipment, appliances, TVs and computers. Amazingly, **Xcel profits in Colorado have nearly doubled over the last 15 years, even though the amount of electricity sold has remained nearly constant.**

Q: Will signing the franchise with Xcel save the City money?

A: **Well, not really**—for a number of reasons.

1) To move forward with clean energy projects, beyond what Xcel brings to all of its Colorado customers as mandated by state law and PUC decisions, will cost additional money that will have to come from somewhere.

2) Participating at the PUC will require on-going and significant legal expenses. To participate fully at the PUC and pay legal and expert witness costs could take $1-$2 million a year, depending on the number of proceedings. The alternative is to not have any significant say in what Xcel does at the PUC with respect to our energy future.

3) Building a local power utility is likely to bring significant revenues to the City which would be foregone if Boulder continues to "rent" the electrical system from Xcel.

Q: Won't clean electricity cost us more?

A: **No.** There are tens of thousands of MW of extremely low-cost wind, solar and storage projects and flexible demand waiting to be developed in Colorado—creating good jobs and lower-cost electricity. For example, see here, here and here. Xcel has been slow to reduce their reliance on coal and natural gas plants since these plants are major contributors to their profits. Choosing to go with Xcel is to support Xcel's decisions to continue burning fossil fuels and emitting GHGs instead of increasing use of less expensive renewables that could lower costs for everyone and be better for the climate.

COMPETITION

Q: How can staying out of franchise save us money?

A: Clean energy is not free, but the amount of money **we pay to Xcel for electricity each year, over $110M**, is much more than enough, in the hands of a not-for-profit local provider, to provide 100% clean, safe, and reliable electricity while stimulating innovation and the local economy. **We will continue to over-pay for dirty electricity as long as Xcel is our provider**.

Staying out of this potentially long-term agreement favors our ability to capitalize on the experience curve that is driving the cost of renewables and storage past grid parity into clearly affordable choices.

Out of franchise, we have the possibility of seeing our rates go down by accessing more competitive energy, by not paying shareholder profits and high priced-executives, and we will be directly accountable for rates.

As a publicly owned utility we will be able to prioritize infrastructure investments based on our community's needs and values, such as allowing power sharing, increased rooftop solar, or improving reliability.

Q: Why can't I just switch from Xcel to some other electricity provider, like I can with my phone?

A: **Colorado law will not allow it.** Over a hundred years ago, the state gave permission to electric power companies to establish territories where they would have the exclusive right to sell electricity with no competition. A business that operates in this environment is a monopoly. Over time, electric power monopolies, like Xcel, have been merged into very large monopolies that operate in many states. These monopolies thrive because there is no price competition and they can use their enormous financial power to influence decision makers to preserve their monopoly status that denies customers a choice.

In Colorado, if you live in a monopoly electric utility's territory, currently the only way to get access to competition is through a community-owned electric utility. It is possible that as more communities become aware of the benefits of competition in electricity markets that Colorado will enact laws allowing communities to select their electricity providers in a more competitive fashion.

COMMUNITY

Q: Does the Franchise Agreement obligate Xcel to provide support for Boulder's transportation electrification goals?

A: **No.** There is no legally binding requirement in the agreement for Xcel to do anything more than discuss what Boulder wants. If Xcel decides it doesn't want to do a project for any reason, it won't happen. The agreement will not force them to do so. Boulder has no control. Xcel will do what is in its best interest.

> *There is no legally binding requirement in the agreement for Xcel to do anything more than discuss what Boulder wants. If Xcel decides it doesn't want to do a project for any reason, it won't happen.*

Q: Does the Partnership Agreement obligate Xcel to support microgrids within Boulder?

A: **No.** There is no legally binding requirement in the agreement for Xcel to do anything more than discuss what Boulder wants. If Xcel decides it doesn't want to do it for any reason, it won't happen. The agreement will not force them to do so. Boulder has no control over whether microgrids are built or where they are located.

Q: Does the Franchise Agreement guarantee joint use of poles and trenching for fiber and electric cables?

There is no legally binding requirement in the agreement for Xcel to do anything more than discuss joint trenching. If Xcel decides it doesn't want to do it for any reason, it won't happen. Section 10.1 of the proposed Franchise gives Xcel easy outs to avoid joint use of poles for broadband development.

Q: Is the franchise agreement fair to all parties?

A: **NO –**

1) Boulder ratepayers have no voice in or control of decisions about Xcel's energy mix, rates, or providing financial assistance to residents with financial needs.
2) Boulder's community goals — 3Rs (renewables, rates, reliability) and 3Ds (decarbonize, democratize, decentralize) will not be achieved–they are just items on a wish list to be discussed, but there are no commitments to achieve them.
3) Xcel has no obligation to see that Boulder reaches its goal of 100% renewable electricity.
4) Boulder is agreeing to stop its municipalization effort without compensation, without knowing cost or options, and without an opportunity for a Go/NoGo vote.
5) Xcel's sales are essentially flat, but profits go up and up and up.
6) The cost for 100% renewable electricity is not specified; it's a blank check.
7) Poorer communities, often communities of color, will continue to suffer from rate increases, lack of access to renewables, and health effects resulting from fossil fuel-burning power plants' emissions located close to their neighborhoods until these plants stop operating in 2041 and 2070.
8) Colorado-produced emissions contribute to global greenhouse gas effects on those who are not involved in this franchise agreement.

LOCAL POWER

Q: Which would be the better long-term financial choice: Local power or franchise?

A: **There are very strong reasons to believe that a local power option will be much**

better for Boulder financially. For example see here. Updated financial modeling based on the city's Financial Forecast Tool (FFT), using the most recent data, indicates a municipally-owned electric utility would be cash flow positive at both 5 years and 10 years after starting, while achieving the 100% renewables goal by 2030. Inputs to the model are based on proposals provided in response to the 2020 issued RFP, current financial markets, city issued estimates of acquisition, separation and startup costs and substantial stranded costs. This is like asking if it would be better to own or rent. The benefits of ownership in this case last for many generations to come.

Q: If Boulder pursued local power, would Boulder have to pay $200 million in "stranded costs," and pay "going concern" damages?

A: **No one knows.** FERC decides stranded costs and no one knows how it will rule. There are strong reasons to believe that now that Boulder has been out of franchise with Xcel for almost 10 years, that any stranded costs would be small or zero. In addition, there are many ways to reduce stranded cost payments in the design of a local power option. Anyone who says stranded costs will be $200M (or any other number) is just making a wild guess.

Q: If we stay out of franchise, will we be able to get to a go/no-go vote?

A: **Yes, probably**. If things go our way, the remaining funds can help Boulder get to a "Go/No-Go" vote. If additional funds are needed there are alternative financing options available. See the recent results of the City of Boulder's 2020 Request for Proposals.

After spending millions of dollars to get this far, it would be painful to stop before we get to the final decision point. A NO vote on 2C keeps the door open. It is only when we quit that the money we have already spent is lost. If we go into franchise with Xcel we will always wonder what might have been.

Q: Would we be able to restart the muni later if we sign a franchise agreement?

A: **In theory, yes**. **In practice it is highly unlikely**. If Boulder signs this 20-year franchise agreement, it would be least 4 years before Boulder could make use of an opt-out. In that time, the City would have lost a lot of expertise and institutional knowledge. Much of the financial and engineering work would be out-of-date and would have to be re-done at significant expense. Legal momentum would be lost and we could find ourselves once again immersed in legal battles but without the experienced legal and engineering teams we have now.

Q: How would future local power efforts be paid for?

A: Under current Colorado laws and regulations, one way to pay for Boulder's local power exploration is through **the existing Utility Occupation Tax (UOT)**. This tax will generate about $4M through 2022. City staff close to the litigation process have said there may be enough money to get to a go/no-go vote with all costs known in 2022.

Another way is through **an agreement with a third-party to provide financing** in return for a future electric power supply agreement. The City is reviewing such third-party proposals now, but we won't get to vote on them in this election. Voting NO on 2C would allow us to solicit more such proposals and consider our options next year and vote with more options to consider.

Q: How do we reduce the cost of exploring a muni?

A: **The City has budgeted $4M over the next two years to be used in exploring a muni. This is a considerable reduction in annual costs over the previous years.** No new taxes will be required. After 2022, no more funds are budgeted. A No vote on 2C will enable us to expend current funding and to seek funding from sources outside of the city to continue exploring a muni.

REBUTTAL

Q: With $25M and 10 years spent, why haven't we been able to have our own municipal utility?

A: **The reason** we haven't been able to complete the municipalization process **is** because **Xcel**, the incumbent monopoly, has used its vast financial and legal resources to attempt to thwart us in the courts, at the PUC, at every opportunity for ten years. Remember, Xcel Colorado's average annual after tax profits averaged $378M from 2010 to 2019. Despite this, Boulder has made steady progress overcoming many hurdles and is currently in line to have cases heard at state level courts and at the Federal Energy Regulatory Commission (FERC).

Q: Both yard signs have windmills on them. Which is the real "green deal" — franchise or no franchise?

A: This vote is not about a "green deal". The **No on 2C campaign is about keeping our options open and continuing to explore better, faster and cheaper ways to meet Boulder's climate goals**. Issue 2C would give in to Xcel's bullying by locking Boulder into a 20-year commitment letting Xcel's management decide for us whether, how, when, and at what cost Boulder reaches our climate goals.

There are clear distinctions between the anticipated outcomes if 2C does or does not pass.

A. **NO on 2C is a response to the urgent need to respond to our climate crisis emergency** by:

1) Keeping the pressure on Xcel to clean up its energy supply,

2) Demanding that our electricity provider meets the city of Boulder's 2017 commitment to 100% renewable energy by 2030,

3) Providing adequate time to analyze proposed partnership costs and to make cost comparisons with potential viable alternatives such as the August 2020 responses of Boulder's Request for Proposals for 100% renewable energy and financing, as well as recently completed Local Power Financial Analysis which incorporated updated inputs to the city's Financial Forecast Tool,

4) Addressing the inequitable aspects of Xcel's business model in relation to the negative effects on poorer communities (e.g. rate decisions, power generation emissions in neighborhoods, and the inequity of opportunities to benefit from rooftop and other renewables).

Many believe that that investment (in addressing our largest source of greenhouse gas emissions) and Boulder's steady pressure has, in part, contributed to moving Xcel from 4% renewables in 2005 to almost 30% renewables in 2019.

B. If 2C passes, it would result in accepting:

1) The less robust carbon reduction response to climate change offered by Xcel (80% reduction in greenhouse gas emissions from 2005 levels by 2030, which in Xcel's world means 70% renewable electricity at most)

2) The hastily-written partnership agreement that favors Xcel in almost every clause (e.g. no cost analysis or cost comparisons were done by the city, Xcel makes no commitments to fund projects, project acceptance may be delayed or denied due to need for Xcel or PUC approval or legislation, and the lack of project completion deadlines and City climate goal milestones).

3) Opt-outs likely being protracted and difficult to implement, wasting even more precious climate time than the published opt-out dates would lead one to believe.

Q: I keep hearing that the local power/municipalization effort has cost $25 million. That's a lot of money – what have we gotten for that?

A: **Yes,** $25 million is a lot of money, **but it needs to be kept in perspective**. **Boulder spends well over $100 million per year on electricity** and the $25 million is over about a 10-year period, or about $2-3 million per year on average. **The money spent on local power/municipalization amounts to less than $3/month for most households and less than that per person.** (You can determine your household amount by finding the "Boulder Occupation Tax" charge on their monthly Xcel bill and dividing it by three—that is your current contribution to Boulder's local power efforts.)

Electricity is the largest source of greenhouse gas emissions and the majority of **Boulder voters have repeatedly confirmed that investing these relatively small amounts per household to address our largest source of greenhouse gas emissions is worth it.** Many believe that that investment and Boulder's steady pressure has, in part, contributed to moving Xcel from 4% renewables in 2005 to almost 30% renewables in 2019.