

HB 15 - 1319 - PUC Membership Geographic Representation

Sponsor: Rep. Esgar

House Committee: Transportation and Energy

Purpose:

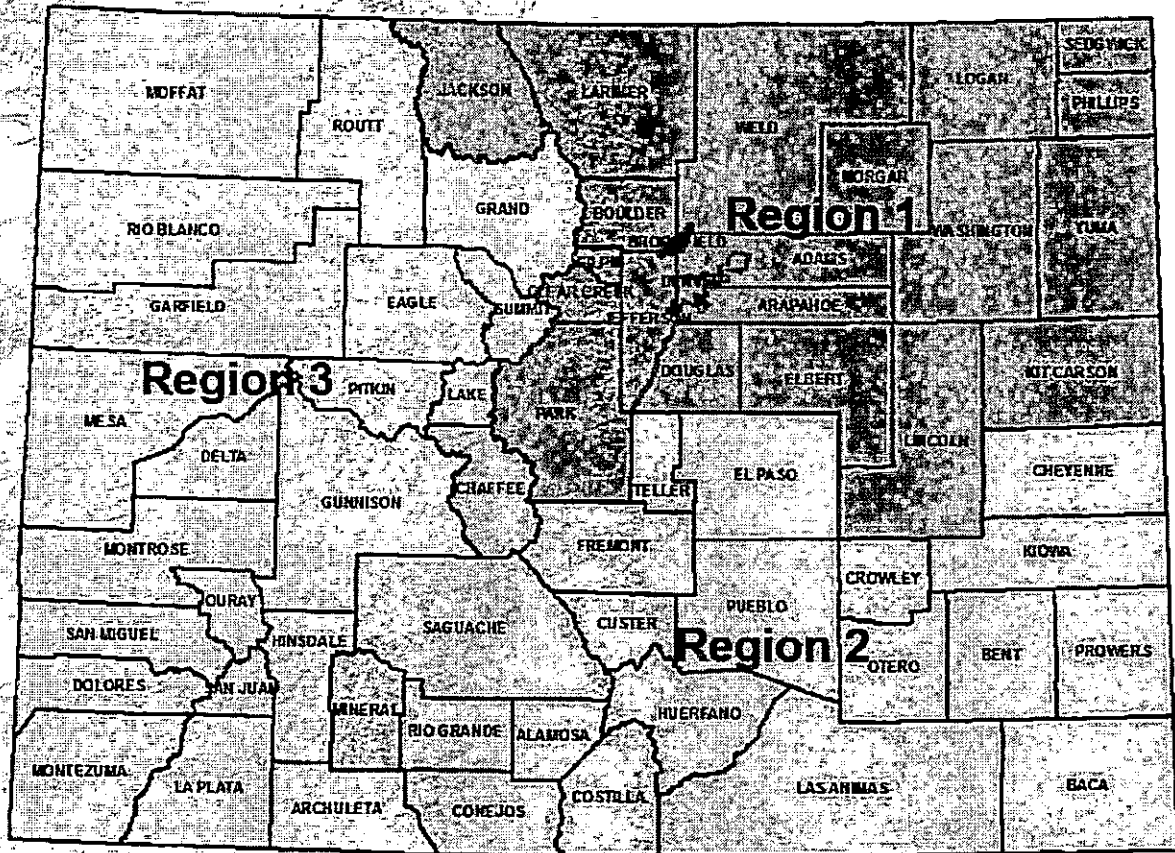
- The bill promotes fair energy standards for all hardworking Coloradans by increasing geographic representation among the Public Utilities Commission (PUC). This legislation ensures that investor-owned energy practices in Colorado balance the interests of consumers across the state, by composing the PUC to represent the different regions that their decisions will affect.

Background:

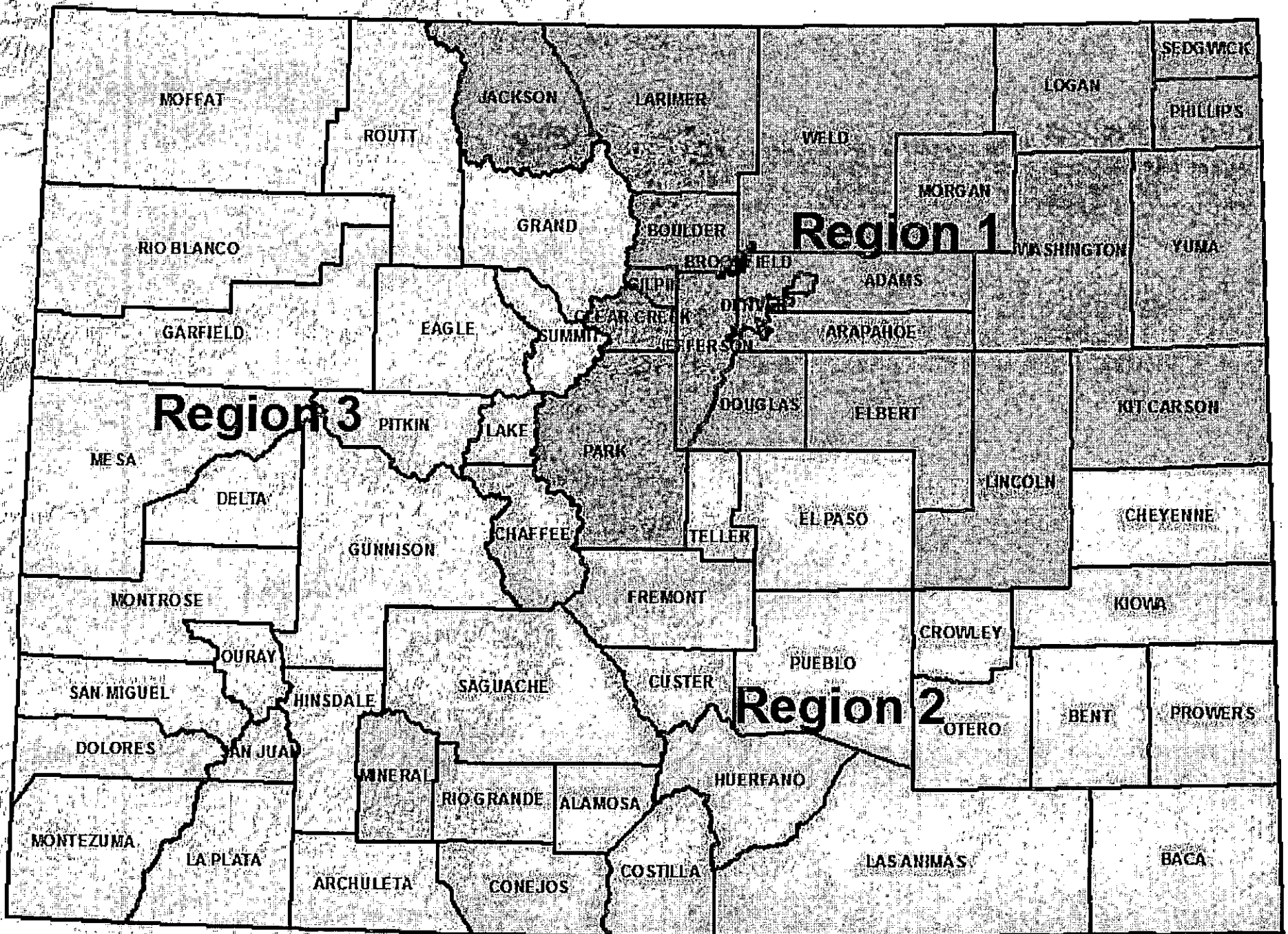
- Per Title 41 of the Colorado Revised Statutes, the Public Utilities Commission is charged with giving paramount consideration to the public interest before decisions are made. Balancing the needs of customers and utility service providers necessitates a commission that is composed to represent the interests of Colorado's western slope, as well as the north and south eastern quadrants of the state.
- Currently, there is no requirement that composition of the PUC should reflect the interest of different regions of the state.
- The PUC consists of three individuals who are appointed by the governor with the consent of the Senate.
- The Public Utilities Commission is an independent constitutional commission which operates within the Colorado Department of Regulatory Agencies (DORA).
- The PUC regulates electric power utilities, natural gas utilities, intrastate natural gas pipelines, district heating utilities, drinking water utilities, transportation utilities and telecommunications utilities.

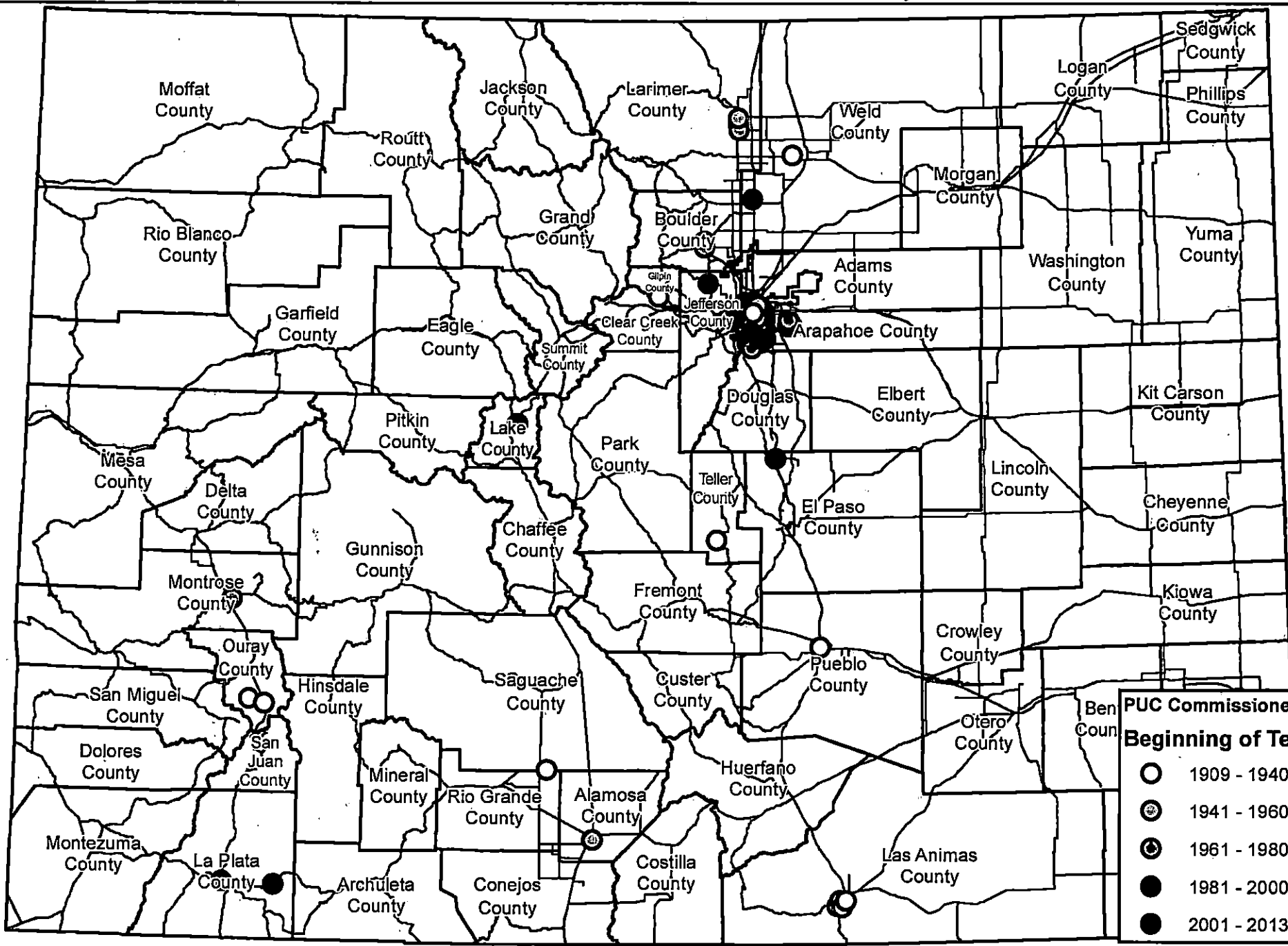
What the bill does:

- The bill increases membership of commissioners from 3 to 5 individuals, appointed by the Governor with consent of the Senate.
- Of the 5 commissioners appointed, 2 will be appointed at large, and the other 3 will be selected from one of the regions specified in the bill.
- The districts are defined to include named counties, consisting roughly of the western slope, the northeastern quadrant of the state, and the southeastern quadrant of the state.

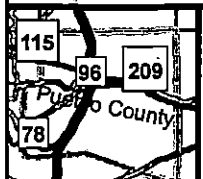


Source: Legislative Council Staff





PUC Commissioners Beginning of Tenure	
○	1909 - 1940
⊙	1941 - 1960
⊕	1961 - 1980
●	1981 - 2000
●	2001 - 2013



1 inch = 40 miles

1:2,534,400



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 For further information, please contact the Pueblo County GIS Center
 218 W. 10th St., Pueblo, CO 81001 719.863.8210 (T) 719.863.8210 (F)

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Public Utilities
 Commission
 Commissioners

Storyline · The Cost Of Climate Change

How not to shut down coal plants

Colorado is way ahead of the rest of the country on moving towards cleaner energy. But if that's not managed carefully, energy bills can skyrocket.

By Lydia DePillis July 24, 2014

PUEBLO, Colo. — Sharon Garcia is stumbling around her dining room in the dark, trying to find Post-It notes.

As she has for years, Garcia wants to affix the notes, marked with dollar signs, to light switches all around her house. The message to her five kids: Light is *expensive*.

“Why do you need to turn the lights off?” she asks her son, Mariano.

“Because otherwise there’s no money,” he answers, dutifully.

“And when there’s no money?”

“You can’t feed us or take us anywhere.”

Bingo, again.

It’s not just the light switches, though. Ever since her power was shut off in 2010, Garcia has adopted a Depression-era obsessiveness: She doesn’t use the oven in the summer, because it heats up the house, and uses only one small air conditioner. Even the aquarium

goes dark when someone's not in the room.

“If we're not in here looking at the fish, it shouldn't be on,” she says. Oh, and forget about machine-washed dishes; Garcia does them by hand (the battle is evident in the pile at the sink). The toaster and microwave bear sticky notes ordering the user to unplug them afterward, lest they continue drawing energy from the sockets. “You think turning it off is enough, and it's not,” she admonishes.

And yet, no matter how much she rations and cuts, Garcia cannot keep ahead of the fast rise in rates. She runs a daycare out of her home, so her monthly bill of about \$200 is already higher than average in Pueblo, where the residential rate per kilowatt hour has risen 26 percent since 2010 — and on a per-household basis, is now among the highest in the state (which seems odd, consider her rent for the house is only \$850).

Garcia's extreme frugality is, in part, the result of coal plants shutting down as Colorado transitions to renewable energy. But in Pueblo, it happened in a way that has left poor consumers gasping for relief.

To a wealthy community, skyrocketing electricity rates might not have much of an impact: When you have a decent-paying job, what's a few more dollars a month on your utility bill?

Pueblo is not that kind of place. With a poverty rate of 18.1 percent, incomes far below the state average and a third of the population on some sort of public assistance, those few dollars can make a big difference here.

So why have rates jumped so much, so fast? The local utility would point to environmental regulations and the sudden disappearance of supply from its competitor. Local officials and environmentalists would cite the utility's business strategy.

The customers were caught in the middle.

Soon after buying the local utility, Black Hills Energy opted to replace nearly all its cheap coal capacity with natural gas essentially overnight — which means ratepayers are footing some big infrastructure bills all at once.

It's true, the state of Colorado has pushed its utilities to move away from dirty fuels — years before the U.S. EPA issued regulations on existing power plants, which are expected to shutter hundreds of coal boilers nationwide by the end of the decade. But there are better and worse ways to transition to renewable sources of energy.

“Black Hills is a utility that has moved beyond coal,” says Leslie Glustrom, research director with Clean Energy Action. “The way that Black Hills has moved beyond coal is not the way we want to do it.”

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For more than a century, Pueblo's coal powered the state: The Colorado Fuel and Iron Company, headquartered on the south side of town, accounted for half of Colorado's production. Its smelters employed thousands of people. That business declined over the years, though; the mighty blast furnaces shut down in 1982. The steel plant changed hands, retaining a fraction of its workforce.

Meanwhile, Pueblo still got its energy from a coal plant in nearby Canon City, which had undergone numerous upgrades since its construction in 1897, and two natural gas plants built in the 1940s in Pueblo. The local utility, Aquila, bought energy from Colorado coal giant Xcel when it needed extra; the dependency gradually increased to 75 percent of Pueblo's demand.

Buying energy seemed to make sense in the mid-2000s, when — over strong objections from environmentalists — regulators allowed Xcel to build a new coal-fired plant at its Comanche generating station outside Pueblo, which locals thought would supply their

energy needs for the foreseeable future. But soon after South Dakota-based Black Hills bought out Aquila in 2008, Xcel pulled the plug: It could make more by selling the power at retail rates to customers in Denver, rather than wholesale to another utility locally (even though it ultimately overestimated demand, and had to raise prices because of a smaller customer base).

Local officials say that's when the troubles really began. Looking back, they wish Colorado's regulators had pushed Xcel to keep selling power locally, just as the city signed a 20-year exclusive franchise agreement with Black Hills. By state law, the Public Utility Commission then has the authority to approve requested rate increases and new facilities.

"They built this thing, they cut us off, so we're stuck with Black Hills," Pueblo city councilman Chris Nicoll says. "The citizens always looked at Comanche as their power plant, but there was a middle-man buying power from them. Nobody thought that a year after they built it that wouldn't be the company we were buying power from."

The overall problem: Since utility regulators authorize Black Hills to recover an 8.53 percent rate of return, it has every incentive to build excess capacity and pass the construction charges on to customers.

At the same time, Black Hills shuttered its older coal plant to satisfy requirements in Colorado's 2010 Clean Air-Clean Jobs Act, as well as its two natural gas plants, since they would be too expensive to overhaul after decades of minimal upgrades. That meant it would have to find new sources for the power it had lost as quickly as possible, in order to keep the lights on for 93,000 customers.

"Never in the history of Colorado regulatory jurisprudence has a utility had to replace 75 percent of its capacity essentially overnight," says Christopher Burke, Black Hills' vice president. "It's going to have a cost impact to our customers. We don't want to see our costs go up — we're customers as well — but that was one of the unavoidable outcomes of

in solar energy, they punish those who do.”

According to the state’s Clean Air Clean Jobs Act, 30 percent of Black Hills’ capacity will have to come from renewable sources by 2020. The most cost-effective way for the utility to do that is by investing in wind plants, since that’s power it can actually sell; Black Hills built a 29 megawatt wind plant. Rooftop solar, by contrast, is simply foregone revenue: The owner of the roof is now no longer a customer.

In any case, Black Hills’ profit is on the rise, even as energy use has remained flat; its parent company’s earnings per share increased by 24 percent over last year in the first quarter of 2014. All while small businesses in Pueblo struggle to pay their utility bills, and local officials worry that the high cost of energy is repelling others from setting up shop, like a factory that might create hundreds of jobs in the depressed city.

“Their shareholders don’t care. Their interest is return on investment, that’s how this works,” says Colorado State Rep. Leroy Garcia, who is pushing a bill to give a ratepayer advocate more power at the Public Utility Commission. “There’s a reason why they’re making so much money.”

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Sister Nancy Crafton, a sprightly nun, runs an assistance center for the county’s large population of poor Hispanic immigrants called El Centro de los Pobres, handing out donations of food and clothing and helping people deal with social service agencies. She says the number of people getting their power shut off jumped precipitously after Black Hills’ first rate hike in 2010, and her nonprofit has paid out \$390,000 in four years to make up the difference when people fall short (it was only \$20,000 a year before that).

But it’s not just the high rates, she says: It’s the fees Black Hills charges for initial deposits, late payments and reconnecting once the power’s been shut off.

the situation that this utility was in.” He also argues that rates are typically higher for rural areas; much of the county outside the town of Pueblo is sparsely populated.

Black Hills won rate increases of 12.6 percent in 2010 and 4.9 percent in 2012 — after asking for much more — to pay for two new natural gas turbines and other infrastructure upgrades. This spring, along with a two-cent-per-kilowatt hour increase to keep pace with the rising price of natural gas, it filed for another 3.7 percent hike to cover the cost of a \$50 million wind plant. At the end of 2013, the Public Utility Commission approved a plan to build a \$50 million third turbine that would be used as a “peaking” facility — a backup used only very rarely, at times of high demand — which will require an additional rate increase down the road.

That’s the part that really ticked off Puebloans: There are lots of other ways to manage spikes in the summer where the grid is under the most pressure, other than adding a whole new plant. A utility in the Northeast, for example, pays Wal-Mart to lay off the air conditioning in its stores slightly, which lowers the peak to a level that existing capacity can supply. It’s also possible to just buy power from regional utilities at times of dire need — though that would leave ratepayers at the mercy of fluctuating market prices.

Perhaps the best way to lower the burden on fixed power plants, however, is to harness the area’s abundant sunshine by encouraging the spread of solar panels on people’s homes and businesses. But Black Hills, citing the lower cost of solar installation, has repeatedly slashed incentives for solar development, creating a shifting cost structure that’s driven local solar installers toward other lines of business while making it nearly impossible for those who bought large solar arrays over the past few years to recoup their investment.

“Suddenly, the ability of that solar power system to save money and pay for itself was negated,” says Paul Huber, a solar installer who had to lay off five of his seven staff members. “It was basically a real kick in the gut to the ratepayers and the solar business. Instead of creating a special rate for people who are enlightened enough to want to invest

“This is typical. I use these for my documentation,” Crafton says, pulling out a utility bill printed on yellow paper out of a folder in her tiny cluttered office. “They owe \$8.29. And a \$50 reconnect, a \$219 deposit, and now they owe \$277.21. They can’t get ahead.”

Getting your power shut off, besides the fees, carries serious consequences. Crafton says that parents who have their electricity cut off are at risk of having their children taken away by county welfare officials, and that anyone without a squeaky clean record can be locked out of Black Hills’ “budget billing” program, which helps people manage their payments.

In her attempts to get Black Hills to understand the plight of the people she serves, Crafton led Chris Burke around some of their houses, and wasn’t satisfied by his response. The utility contends that there have to be consequences for nonpayment, but since customers have no alternative, Crafton isn’t buying it.

“They always come back to, ‘if you went to a restaurant, you would have to pay for it.’ And if you didn’t pay for it, the second or third time you came back, they would say, ‘don’t let her in the restaurant anymore,’” Crafton says, in her grandmotherly voice. “And I said ‘no, I wouldn’t eat at the Broadmoor. I would eat at Wendy’s, where I could afford it.’”

The housing component of energy costs is particularly destabilizing. Anne Stattelmann, who runs a local nonprofit called Posada that aids the indigent, found that 35 percent of newly homeless people she worked with in 2013 lost housing because their electricity service had been cut off.

“I spend my days writing grants trying to keep my nonprofit alive, and the other thing I deal with is Black Hills Energy,” Stattelmann says. “Black Hills people came to Posada and said ‘we can’t be the only utility that’s a barrier to housing.’ And we said, ‘Oh, but you are.’ Xcel, they’ll work with you, they don’t want to shut you off. Black Hills, they’ll shut you off.” Black Hills contends that it’s waived reconnection fees for many customers, and that

shutoffs have declined since 2010; Stattelmann thinks that's because families have doubled up or become homeless because they couldn't afford to reconnect.

Sharon Garcia certainly didn't expect Black Hills to actually cut off her power when she lost her daycare contract with social services in late 2010, which temporarily wiped out her income. Her youngest child was a baby, and as a single mom, she didn't have anywhere else to turn.

"I'm like, 'I have kids, how can you do that?'" she remembers telling the Black Hills employee who came to her door. "Life happens, and you snowball out of control."

Nonetheless, the power disappeared. She and the kids huddled under blankets at night and lit candles, braving a fear of the house burning down to create a little heat and light. Even the gas water heater didn't work without electricity, so they had to boil water to fill the tub. The bill to get service restored was \$800, she says, and Sister Nancy referred her to a local government housing agency with grants to bail her out.

Garcia hasn't had her power shut off again, perhaps because of how determined she's been to keep her kids in line. Now the older ones remind the younger ones to turn things off, and yelling reminders is reflexive.

"Emilio, who's in the front room?" Garcia shouts from the front porch. It's a warm night, but the darkness is unsettling. "Go tell him, if he's watching TV, the light shouldn't be on. And close the door!"

Correction: Black Hills is authorized to recover up to an 8.53 percent rate of return, not guaranteed. Additionally, the wind farm cost \$50 million, not \$70 million, and the state law authorizes the PUC to grant requests for rate increases and new infrastructure, not the municipal franchise agreement.