

Friday, May 17, 2024

RE: Proceeding 24R-0168EG

Dear Public Utility Commissioners,

On behalf of the undersigned groups, we thank you for accepting this comment regarding the implementation of sections 2 and 3 of SB23-291.

Around the country, utilities [routinely charge customers](#) for their political influence activities including lobbying and political contributions. Sometimes these customers' dollars from their monthly bills are used by the utility to lobby or work against laws and regulations that would lower those same bills.

Thankfully, Colorado legislators passed a nation-leading law last year, [SB23-291](#), to protect customers from paying for utilities' political activities, including lobbying, efforts to influence the outcome of ballot initiatives and advertising only meant to bolster a utility's brand.

The law charged the Public Utilities Commission (PUC), which regulates Colorado's investor-owned utilities, with requiring utilities to file a report every year with the PUC that the Commission could use to ensure the utilities are following the new law and not charging customers for things that their shareholders should be paying for, like lobbying and advertising.

This report is far more than just a formality. It is the best chance we have to make sure the utilities are actually following the law.

Unfortunately, the transparency rule the Commission has proposed is light on details and specifics. Utilities have too much latitude to decide what kind of information they need to report to the Commission.

We cannot simply take utilities at their word - their reports must be more transparent and verifiable.

Our concern is well founded. An analysis by the Energy Policy Institute of initial compliance filing by Atmos, Black Hills Gas and Xcel found that they provided almost no information that could help the Commission, or the public, ensure that they are complying with the new law.

The little information they did provide was inaccurate. In the utilities' filings that are supposed to represent all the money they spent on lobbying, all failed to list expenses for some of the lobbying that their staff did **against SB 291 itself** last year, among many other data gaps.

Good, robust transparency will prevent Colorado from experiencing the kinds of utility dark money and corruption scandals that other states, like [Ohio](#) and [Florida](#), have suffered. It's crucial that the Commission get this right.

We recommend two key changes to the proposal:

- First, the PUC should explicitly require that utilities itemize lists of expenses at the employee and invoice level, so that the data reported is actually useful to make sure utilities are complying with the law.
- Second, the PUC should require that the utilities report accounting information for all employees who work for business units and affiliates that conduct activities prohibited for recovery, and for all outside vendors that were paid by the utility to conduct activities prohibited for recovery.

These are simple and common-sense measures, elements of which have been employed by other utility commissions, like [Arizona](#), [California](#), Connecticut (see here in [statute](#), or [here](#) for an example of a filing), Michigan (see [Form 521](#)) and [Texas](#).

By adopting those basic transparency measures, the Commission will be able to tell if the utilities are improperly charging customers for expenses that are prohibited for recovery, protecting customers from paying for political and other costs that Colorado law now clearly says they shouldn't have to pay.

Thank you for your consideration.

Sincerely,

Danny Katz, Executive Director, CoPIRG (Colorado Public Interest Research Group)

Eric Frankowski, Executive Director, Western Clean Energy Campaign

Lauren Swain, Coordinator, PSR Colorado - Physicians for Social Responsibility

Portia Prescott, President, NAACP State Conference Colorado-Montana-Wyoming

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Katara Burrola, EJ Organizer, Mi Familia Vota

Wendy Howell, State Director, Colorado Working Families Party

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Alana Miller, Colorado Policy Director, Climate and Energy Program, Natural Resources Defense Council

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