

Boulder has 'two agreements done' in process of muni negotiations with Xcel, city attorney says

'We're working on a final agreement on costs,' Tom Carr says

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EDITOR'S NOTE: An earlier version of this story incorrectly said the City Council would have a public hearing on municipalization March 5.

Boulder has "two agreements done" — the interim cost agreement and the easement agreement — and are "working on a final agreement on costs" in the process of the city's negotiations with Xcel Energy, City Attorney Tom Carr said Monday during a public update of the ongoing municipal separation with about 30 residents.

The negotiations were required by the Public Utilities Commission in September [when it gave partial, conditional approval to the city's proposal to separate from Xcel](#), the city's incumbent electric provider.

Carr illustrated to residents in attendance that the city is in the process of fulfilling a bevy of requirements before it can get the transfer of assets in its separation.

After separation, Xcel will still own distribution equipment necessary to serve its customers, he said. Xcel needs both the right to place its infrastructure on city property and the ability to access this infrastructure to make repairs.

Presently, Carr said, the city isn't authorized to grant permanent property rights in right of way; a change will require voter approval.

"The city has been ordered by the commission to meet several requirements before we can get the transfer of assets. We're in the process of fulfilling those requirements. We have two agreements done: the interim cost agreement and the easement agreement — which is an agreement to transfer property rights," he said.

"We're working on a final agreement on costs. The principal is that we have to be able to give Xcel property rights and we have to agree to make sure that no other ratepayer in the state pays for the cost of Boulder's municipalization — that's what we are doing now."

Carr said the agreement would also provide financial security for Xcel to get paid for its work and construction, as well as gives the city the ability to review Xcel's expenses to protect taxpayer funding.

Boulder is prepared to move ahead in an attempt to condemn Xcel's local assets and strike up a city-owned utility, but it is not quite finished at the PUC. By March 13, Boulder and Xcel must present the commission with three separate agreements that were conditions of approval.

"We are at the beginning of the design phase for separation," Carr said.

The three requirements are:

- The filing of an agreement between Boulder and Xcel that allows Xcel to permanently place and access facilities in the city that it needs to serve its remaining customers
- The filing of a revised asset list that corrects "errors and omissions" from what was originally submitted
- The filing of an agreement, or multiple agreements, between Boulder and Xcel addressing the city's payment to Xcel for costs the company incurs facilitating separation

In November, Boulder voters reaffirmed their support for a city-run electric utility, [passing a tax renewal](#) that will ensure about \$16.5 million in funding for the pursuit over the next three years.

"The reason we're here tonight is because the feedback we got from the public was that we weren't being transparent enough," Carr said Monday. "Our goal is to get to the election (in the future) with everyone knowing exactly what we're talking about."

The order followed a nine-day trial last year, and the application reviewed during that period was Boulder's third in two years; neither of the first two were accepted for trial.

Entering the hearings, Boulder set forth a request for approval of the transfer of Xcel assets within city limits.

Boulder also asked that the commission approve a separation plan, which spelled out the details of various proposed processes needed for a "safe, reliable and effective" split with Xcel.

Residents at Monday's public update lauded officials for their transparency, asking only to be clued in sooner to future meetings.

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