



Jay Herrmann  
Regional Vice President  
Customer and Community Service

1225 17<sup>th</sup> Street, Suite 1200  
Denver, CO 80202

May 6, 2010

Ms. Jane Brautigam  
City Manager  
City of Boulder  
P.O. Box 791  
Boulder, CO 80306

Dear Ms. Brautigam:

Please accept this letter as a formal response to your proposal of April 20, 2010. We had hoped and expected the joint efforts of our teams over the last year to negotiate a new franchise agreement would result in a successful conclusion in 2010. Xcel Energy addressed Boulder's priorities identified a year ago by city staff as the key elements to an agreement on a new franchise.

The city's priorities were detailed and challenging. They required complex and often time-consuming evaluations on the part of our company. We worked through each proposal, came to a position on each one, and communicated them to you and your team this year on February 9.

We have made significant progress in discussions and/or actions to address most of the city's expressed priorities, including Valmont, customer data, energy efficiency rebates, renewable energy, undergrounding and relocation, Solar Gardens and SmartGridCity.

Based on the amount of time, effort and resources already committed to the city's list of priorities and the target date of May 21 to complete negotiations, we were surprised by a new and substantive request only four weeks prior to the negotiation deadline. It asked that we agree to a 28-month franchise extension from the current expiration date and to agree to co-fund a study that could offer no surety of a positive outcome for the franchise negotiation.

We are not prepared to agree to this extension. It is not clear how an extension would bring us any closer to a final agreement. However, upon execution of a new franchise, as a result of a successful vote in November, 2010, we would be willing to partner with Boulder on a study similar to the one suggested in the April 20<sup>th</sup> proposal. This commitment will be incorporated into a side agreement..

There is a fundamental difference of opinion about the scope of the franchise agreement. As we have discussed, the franchise serves a purely administrative function to set the terms and conditions for placement of our facilities in public rights of way. This agreement cannot legally be the vehicle for choosing the composition of our power supply serving only our customers residing in Boulder.

The construction and purchase of electricity generation in our state are regulated by the Colorado Public Utilities Commission (PUC), not at the local municipal level. Extending the franchise by two years would not change that jurisdictional reality.

If the city wishes to influence the composition of our electric generation portfolio, it has the opportunity to do so in two important ways: 1) by participating in the PUC proceedings for that purpose, and 2) Windsource. The city already has a program for decarbonizing the energy used by residents and businesses through Windsource, one of the nation's leading customer choice programs for green energy. We have offered to work closely with the city to further promote this Green-e certified product to our Boulder customers, the majority of whom do not participate.

We also have offered to look at ways to accommodate a larger, bulk purchase by the city on behalf of your residents. Windsource delivers renewable energy produced in our region and would allow Boulder to immediately achieve its energy supply environmental goals. We cannot bypass PUC regulations by entering into an agreement with Boulder, or with any other community, for the delivery of alternative sources of energy as part of franchise negotiations.

We will continue our advocacy efforts at the state level to support clean energy initiatives for all of Colorado that go far beyond the results we could achieve through programs designed for any single community. Be assured we will continue to serve our customers in Boulder and provide safe, reliable and reasonably priced energy. It is our preference to do this under the governance of a new franchise agreement so the city can continue to receive the many operational and financial benefits a franchise agreement provides. However, it is the City's choice to enter into a new franchise agreement or not.

There is little to be gained in expending additional time and effort to finalize the franchise agreement, the related street lighting agreement and side letter if the city council is not interested in placing the franchise on the ballot this fall. If a majority of city council members expresses support for a move toward the November election, we will continue to work tirelessly with your staff to reach agreement by the deadline. If, however, a majority of members do not support the ballot election, we recommend ending all negotiations at this time.

Sincerely,

A handwritten signature in black ink, appearing to be "J. H. He", followed by a long horizontal line extending to the right.

cc: City Council Members