

A GROWING ISSUE: HOW DOES “LEGALIZED” MARIJUANA AFFECT ELECTRIC UTILITIES?



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What's all the buzz about?

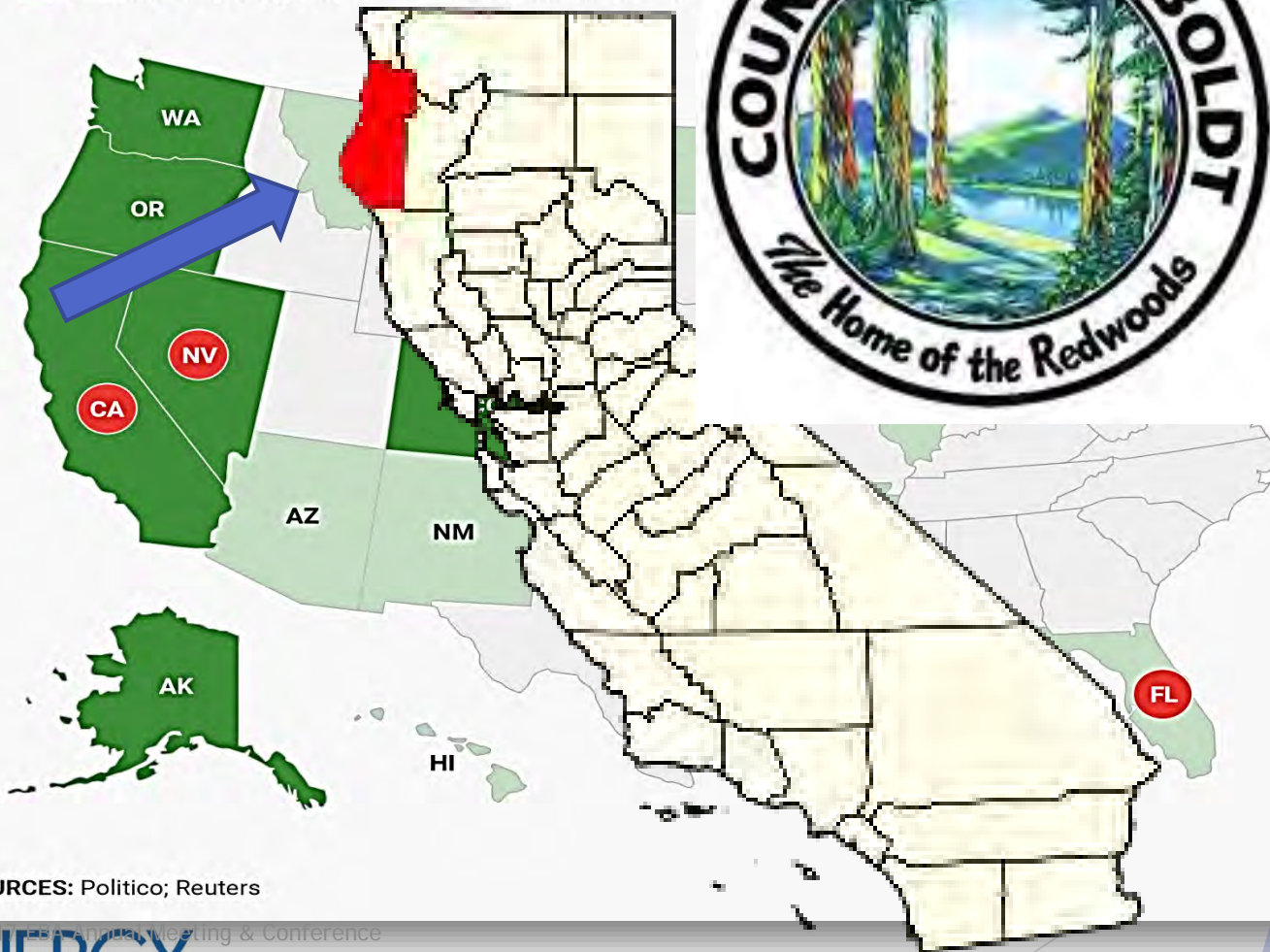
- ▶ Some states have “legalized” marijuana growing.
- ▶ **Energy Issues**
 - ▶ Increased load/demand/capacity, rate design/use tax, engineering, service obligations, environmental issues (the green isn't so green?)
- ▶ **Legal Issues**
 - ▶ Marijuana remains illegal at the federal level
 - ▶ Aiding & abetting, civil forfeiture, duty to report???
 - ▶ Ethical issues???
- ▶ **Practical Issues for Electric Utilities**
 - ▶ Employees, payment/accounting issues, safety



BUSINESS INSIDER
ELECTION ★ 2016

STATES WHERE MARIJUANA IS LEGAL

■ Legalized marijuana ■ Legalized medical



ED

Nov. 2016



SOURCES: Politico; Reuters

Show me the GREEN.

- ▶ Estimated **\$6 billion** a year in energy costs
(Evan Mills, PhD)
- ▶ Estimated **50%** of grower's cost are electricity bills
(For those who pay)



So what will we cover?

- ▶ The Colorado Experience
- ▶ Federal/State Conflict
- ▶ Practical Considerations For Utilities
- ▶ Discussion and Q&A



The Colorado Experience

Drew Bolin
Research Chief, Colorado Public
Utilities Commission



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The Colorado Experience

2000

Colorado voters legalized the use of medical marijuana.

2012

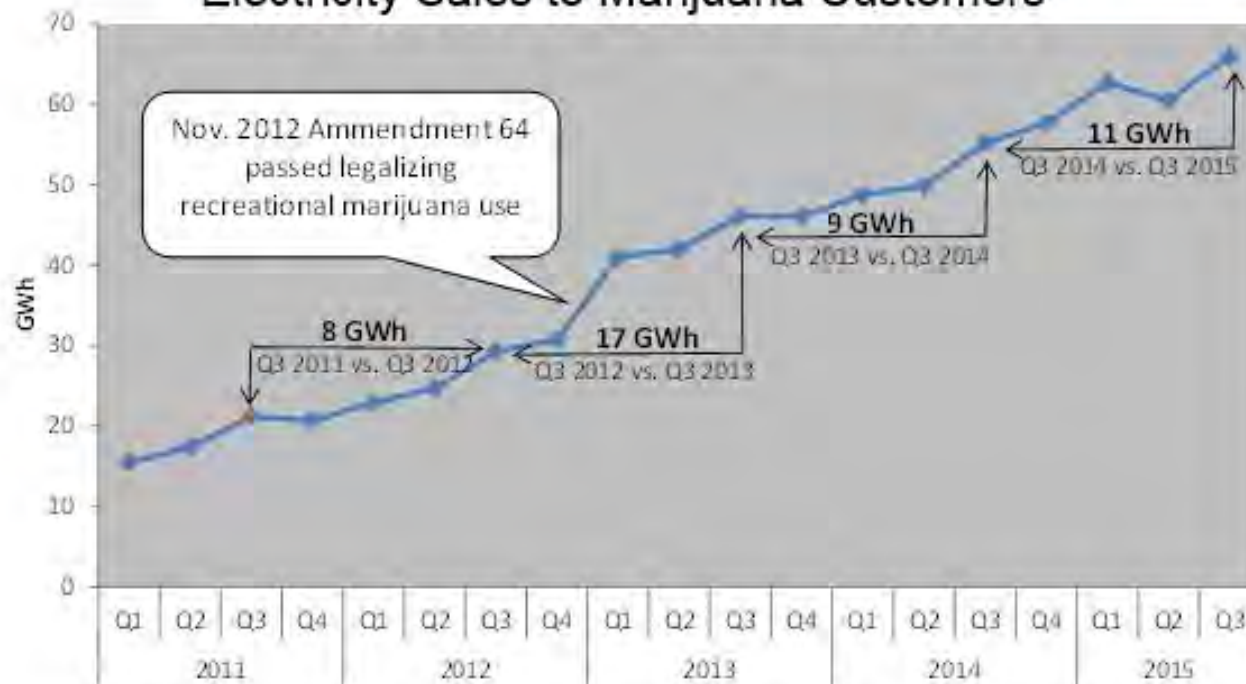
Colorado voters legalized the use of retail marijuana in 2012 through amendments to the Colorado Constitution.

2017

Beginning in 2017, medical marijuana patients may not cultivate more than 99 marijuana plants.

Marijuana Industry – PSCo

Electricity Sales to Marijuana Customers



- ◆ With the legalization of recreational marijuana the industry rapidly grew and has continued expanding throughout Colorado.
- ◆ Total state revenue from marijuana activities from overall taxes and fees totaled \$87 million through August 2015, up 92% from the prior year.¹
- ◆ Electricity sales to customers in the industry now consume 1.8% of Small C&I and 0.8% of total retail energy in the PSCo service territory.

THIS JUST IN

The U.S. Green Building Council
will certify

LEED for WEED



ENERGY
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Many Unintended Consequences

- ▶ Cannabis production now accounts for nearly 50% of electricity load growth.
- ▶ Rate recovery issues to replace damaged neighborhood transformers.
- ▶ Data privacy issues for grow facilities.
- ▶ Does keeping marijuana “intra-state” fend off interstate commerce issues?
- ▶ Are there issues of WAPA selling electricity to end-users?



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Marijuana Remains Illegal Under Federal Law



- ▶ Marijuana is still listed as a Schedule 1 controlled substance under the federal Controlled Substances Act of 1970.
 - ▶ This is the most restrictive designation—same as heroin.
- ▶ The FDA says that marijuana has no medicinal value.
- ▶ As recently as 2016 the DEA refused requests to reclassify marijuana under the Act.
- ▶ Marijuana is illegal for any and all purposes under federal law except for strictly controlled scientific research.

Prior Administration Approach

- ▶ Pursuant to the *2013 Cole Memorandum*, U.S. Department of Justice issued guidelines to states that have legalized marijuana.
- ▶ State regulation could be consistent with 8 federal “enforcement priorities” aimed at reducing collateral crimes rather than marijuana use or possession itself.
- ▶ The “permissive” approach of DOJ had no legal weight and could be changed at any time.



Meet The New Boss: Same As The Old Boss?

- ▶ "I reject the idea that America will be a better place if marijuana is sold in every corner store. And I am astonished to hear people suggest that we can solve our heroin crisis by legalizing marijuana—so people can trade one life-wrecking dependency for another that's only slightly less awful."
- ▶ "We need grown-ups in charge in Washington to say marijuana is not the kind of thing that ought to be legalized, it ought not to be minimized, that it's in fact a very real danger."
- ▶ "You can't have the President of the United States of America talking about marijuana like it is no different than taking a drink... It is different... It is already causing a disturbance in the states that have made it legal."



Congrats, Trump voters.



State Challenges To Other State Laws

- Lawsuit was filed by Nebraska and Oklahoma against Colorado
- The legal question is whether state legalization is “passive” or “active” regulation.
 - Colorado argues that it is not required to mimic or enforce federal law
 - The counter argument is that states are creating a market for a commodity that is illegal under federal law.
- The Supreme Court declined to hear the case.
- Other legal challenges by states may be coming.



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Energy Consumption

- ▶ Marijuana production consumes 1% of US electricity which is equivalent to powering 1.7 million homes, costing \$6 billion annually. (*The Carbon Footprint of Indoor Cannabis Production: Evan-Mills.com/energy-associates/Indoor_files/cannabis-carbon-footprint.pdf*)
- ▶ In 2014, the Northwest Power and Conservation Council estimated that electricity use will almost double by 2035 in the northwestern states alone. (*Electrical load impacts of indoor commercial cannabis production: NWCouncil.org/media/7130334/p7.pdf*)
- ▶ Many rural electric coops report doubling electricity consumption when a large, commercial marijuana grow house begins operation.
- ▶ Electricity saving solutions must be considered

Energy audits will identify energy use and costs, including operating during off-peak hours, energy efficient lighting (LEDs), and technologies such as smart meters (*Illuminating Cannabis, The Future of Energy in the Marijuana Industry, Analyst Report, New Frontier (2016)*)



Rate Issues

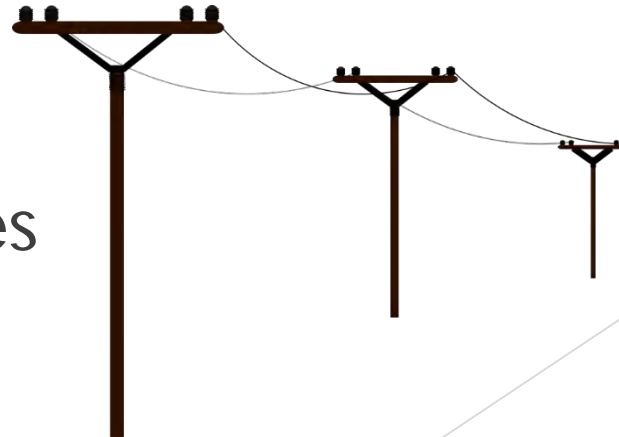


Residential

- Customer Deposits
- Operating a Growing business in a Residential Home

Commercial

- Special Tariffs
- Transmission Upgrades



Money, Money, and more Money!

- ▶ Marijuana is a cash industry, invest in a cash machine.
- ▶ Some employees reported becoming sick from handling cash.
- ▶ The IRS and the Financial Crimes Enforcement Network ("FinCEN") require Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, to aid the federal government in tracking potential criminal activities and tax evasion

(Reporting Cash Payments of Over \$10,000 (Received in a Trade or Business), Dept. of the Treasury, IRS, Publication 1544 (Rev. September 2014))



Safety Issues

- ▶ Utility Employee Safety Issues
 - Utility workers at marijuana facilities
 - Theft and/or Robberies at local utility offices where cash payments are made
 - Illegal happenings at otherwise legal marijuana facility
 - Knowing when to report suspicious activity to local authorities



- ▶ Unauthorized Grid Modifications
- ▶ Regular Training for Employees by Local Law Enforcement
- ▶ Employee Handbooks and Safety Procedures must be updated regularly to address this growing industry

Quickly Changing Legal Landscape

▶ Local Regulations

- ▶ In Colorado, there are some circumstances where a city, county, or municipality may prohibit a grow facility even though the activity is otherwise legal according to state law. C.R.S. §§ 12-43.3-103, 12-43.3-106, and 12-43.4-101(7).
- ▶ Sherriff and Police Department Training for Utility Employees

▶ State Regulations

- ▶ In Colorado, the law governing “limited access areas” is slightly different depending on whether the facility is a medical or recreational marijuana facility. Utility employees may unknowingly be entering or accessing “limited access areas” that are prohibited to non-licensed persons unless “escorted” by a licensed person. C.R.S. §§ 12-43.3-105 and 12-43.4-103(1).



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