

The Rural Electric Rift:

Cooperatives Split Over Clean Energy and Local Control

By Maria McCoy and John Farrell
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Local Self-Reliance

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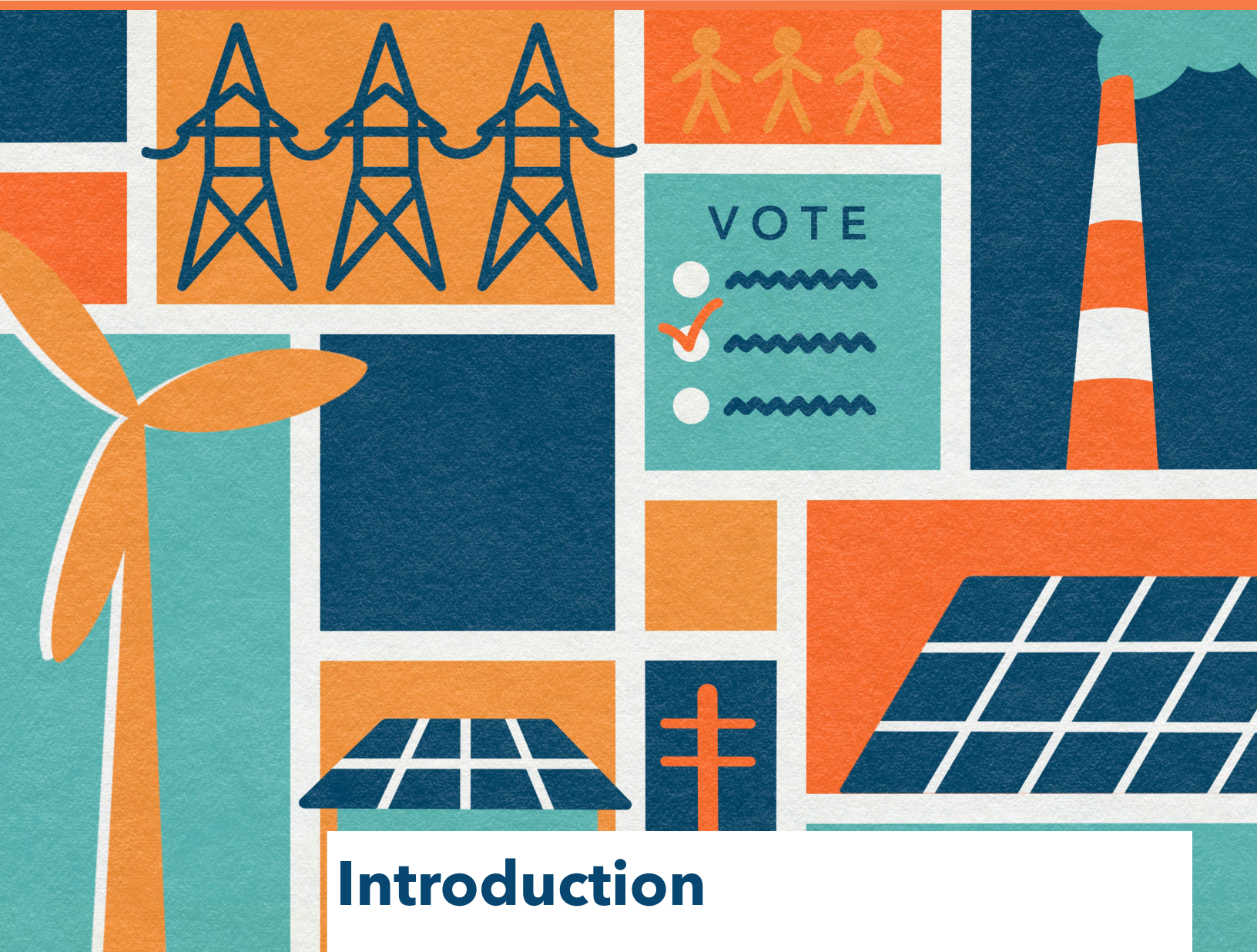
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Introduction

In the early 20th century, city dwellers in places like New York and San Francisco had electricity lighting their streets and homes. Rural communities, in contrast, were left in the dark. For-profit electric utilities had no reason to electrify rural areas — the cost of building the infrastructure to reach them outweighed the benefit of a modest new customer base.

The federal Rural Electrification Act of 1936 filled this market gap and helped rural communities build their own electric grids. This New Deal measure provided low-cost federal financing to build rural electric distribution networks. It fed the brewing rural electric cooperative movement: residents coming together to create their own consumer-owned electric utilities. Today, **831 electric distribution cooperatives serve 42 million people across the United States**. Most of these distribution cooperatives get their electricity supply from one of 63 generation and transmission cooperatives.

Serving rural communities presents distinct challenges. Rural electric cooperatives do not operate to turn a profit, so in theory, they can offer lower rates. They must, however, build and maintain **four times more line miles per customer** than the for-profit utilities that serve urban areas.

Distribution cooperatives also typically rely on wholesale suppliers for electricity generation, with decades-long purchase agreements and loan repayment obligations. These generation and transmission suppliers invested billions in coal plants and other large-scale power plants — so when rural

customers ask for lower bills and cleaner power, two of the benefits of renewable electricity, their local cooperative may not be able to deliver.

This paper examines the struggle of electric distribution cooperatives and their members to restore local control over electricity purchasing and harness the benefits of affordable clean energy. It covers the misalignment, contract breaks, and contract re-negotiations between distribution cooperatives and the generation and transmission cooperatives that serve them.

A Rural Electric Cooperative Status Update

In ILSR's **2016 report on electric cooperatives**, we found that cooperatives have low member-owner engagement, are stuck in long-term coal contracts, and may be restricted in their capacity to generate local, renewable electricity.

On the bright side, some things have changed since 2016:

- Coal is **32 percent** of the electric cooperative fuel mix (compared to 41 percent in 2016), while renewables are **22 percent** (compared to 17 percent in 2016).
- Local cooperatives are pursuing self-reliance. Kit Carson and Delta Montrose have broken their contracts with Tri-State Generation and Transmission, while other distribution cooperatives are negotiating partial contracts with their generation and transmission cooperative (G&T) suppliers.
- Given the freedom of local control, several rural electric cooperatives are **leading all utilities in solar deployment**.
- More distribution co-ops are offering services beyond electricity to their member-owners, including broadband Internet access, electric vehicle charging programs, and **transactive energy rates**.

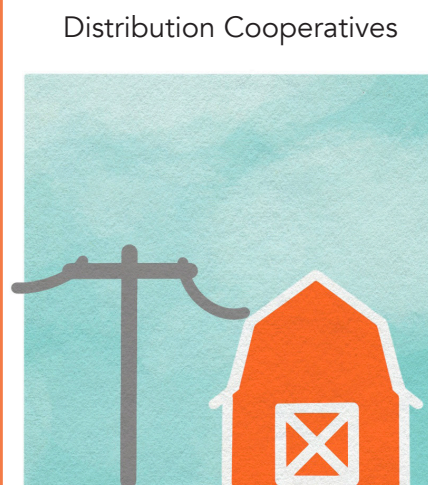
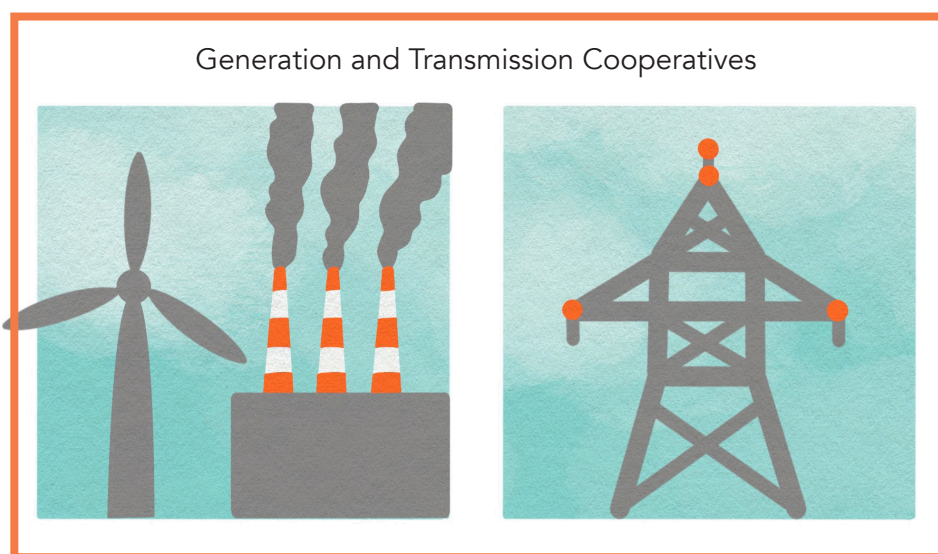
Meanwhile, **billions of dollars in federal funding** are now available to rural electric cooperatives. Proactive cooperatives can take advantage of federal funding to build clean energy projects, support beneficial electrification, and retire coal plants.



Power Supply Contracts Hold Co-ops Back

In pursuit of economies of scale, the first electric utilities laid the groundwork for a top-down power grid that moves electricity from large, centralized power plants to many customers. Even though for-profit utilities would not offer service in their areas, cooperatives found their own way to capture economies of scale and provide affordable electricity. They could not afford to each build their own power plants. Instead, distribution cooperatives banded together to create generation and transmission (G&T) cooperatives.

G&Ts, serving multiple distribution cooperatives, build or acquire power plants and transmission infrastructure on behalf of their member cooperatives. The distribution co-ops sign power purchase agreements with these wholesalers.



The contracts between distribution cooperatives and G&Ts secured access to low-cost electricity at the time, but they also locked local cooperatives into multi-decade contracts.

Generation and Transmission Contracts Restrict Democracy

Oftentimes, distribution cooperatives have “**all-requirements**” contracts with their generation and transmission cooperative, designed to maximize financial security for power plant financing. All-requirements contracts require distribution cooperatives to purchase **anywhere from 85 to 99 percent** of their electricity from the wholesaler. Their terms may last as long as **60 years**. Distribution cooperatives under these terms have a very limited ability to purchase electricity elsewhere or to generate local, renewable electricity.

Because distribution cooperatives often don’t generate much of their own electricity, they are stuck with the power sourcing decisions handed down by their wholesale provider. This dependence eclipses democratic member control by members of distribution co-ops. Individual households and business owners have a say over the leadership of their distribution cooperative, but their distribution co-op’s single representative on the G&T board



gives them little influence in the sourcing and power mix of the supplier. G&T co-ops have even barred distribution co-op members from attending their board meetings (a practice now illegal in Colorado, thanks to a **state law on co-op transparency**).

Coal Investments are Harming Cooperatives

Generation and transmission cooperatives are deeply invested in coal power plants, which contribute to climate change, harm public health, and become a drain on local economies.

Generating electricity with coal-fired power plants is extremely carbon-intensive. Coal plants only generate **19.5 percent** of the U.S. electricity supply, but they contribute **59 percent** of the electric power sector’s carbon emissions. Coal plants also release toxic air pollutants that contribute to **asthma, heart problems, and cancer**.

The Devil You Know

Coal contributes 59 percent of the electric power sector’s carbon emissions based on combustion emissions only. The life-cycle emissions of methane gas (which include methane leakage in extraction and delivery) put the climate impact of gas **on par with that of coal**.

Even without accounting for coal’s externalized costs on climate and health, the economics of coal do not pan out. Large coal plant construction came to a **halt in 2013**, and now, even running existing coal plants is uneconomical. A **2023 report by Energy Innovation Policy & Technology LLC** found that replacing existing U.S. coal plants with new wind and solar would save money in basically all cases.

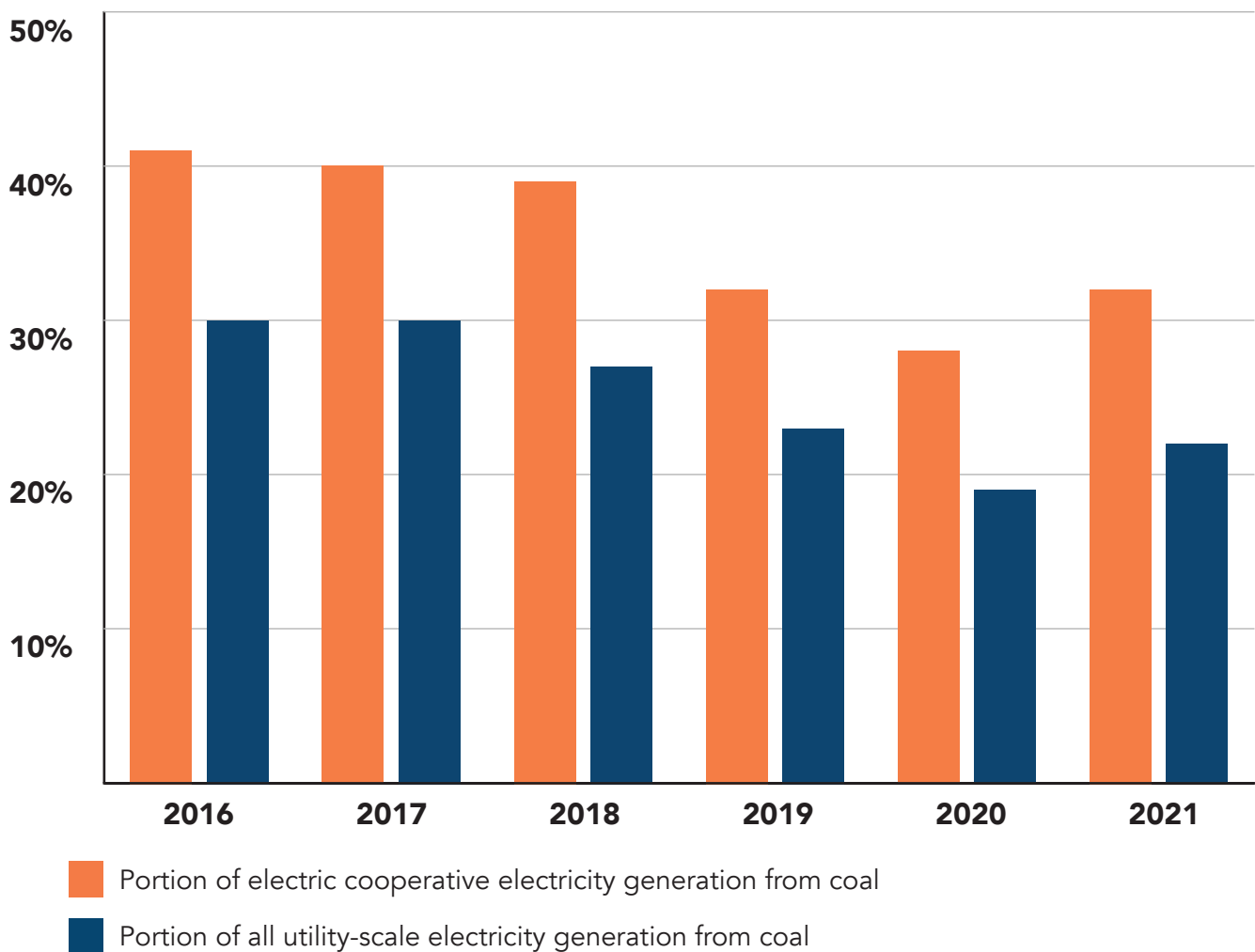
ILSR's **2016 report** counted seven generation co-ops on the list of ten most carbon-intensive electric utilities. In that same year, NRECA reported that coal plants contributed **41 percent of the national cooperative retail electric fuel mix**. The allure of coal-fired power generation has since diminished — see the examples of **Great River Energy** and **Old Dominion Electric Cooperative** — but coal power plants are still a burden on cooperatives. In 2021, coal power made up **32 percent** of the electric cooperative fuel mix, while coal plants only generated **19 percent** of electricity from utility-scale facilities industry-wide (Figure 1).

Coal dependence is one reason why some distribution co-ops are breaking, or trying to break, their power supply contracts.

» For more on coal and cooperatives, including how to facilitate a transition out of coal, read **Rural Electrification 2.0: The Transition to a Clean Energy Economy** by Center for Rural Affairs, CURE, and We Own It.

Figure 1.

Co-ops Disproportionately Rely on Coal



Data from NRECA and U.S. EIA Electric Power Monthly table 1.1



Distribution Cooperatives, Fueled by Discontent, Reach Escape Velocity

Some distribution co-ops are breaking free from their restrictive power supply contracts. They break their contracts to gain independence, cut ties with coal, and reduce costs. Many co-ops have found that exiting their contracts in favor of building or buying renewable energy will pay off in the end — even after paying hefty legal and exit fees.

Co-ops in Colorado and New Mexico Are Tired of Tri-State

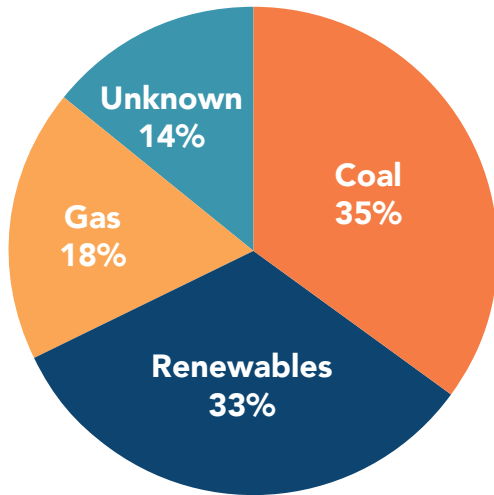
A lot of the buzz around breaking contracts has involved one generation and transmission cooperative: Tri-State. Tri-State Generation and Transmission, established in 1952, currently serves 43 distribution cooperatives in Colorado, Nebraska, New Mexico, and Wyoming.

Under their contracts with Tri-State, distribution cooperatives may only generate five percent of their electricity needs locally. They purchase the other 95 percent from Tri-State — which generates the largest portion of its electricity supply from coal. In 2022, the Tri-State generation **resource mix** was 35 percent coal, 33 percent renewables, and 18 percent gas (Figure 2). Tri-State purchased the remaining 14 percent through contracts.

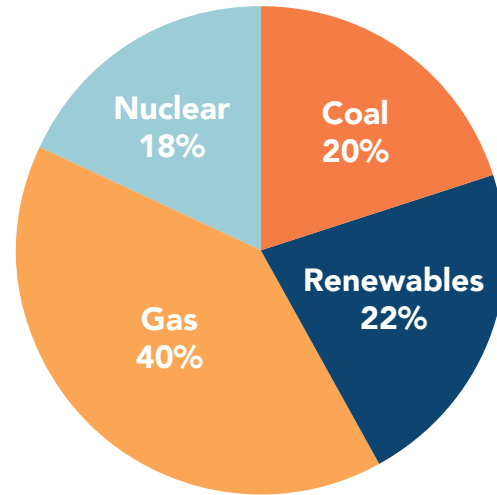
Figure 2.

Tri-State's Power Portfolio vs. the U.S. Electricity Sector

Tri-State Generation and Transmission



United States



Data from Tri-State's 2022 Annual Report and U.S. EIA Electric Power Monthly, 2022

Tri-State's electricity is not just dirty; it is dirty and expensive. The G&T's wholesale rates are up to **212 percent higher** than those of other wholesale electric providers in the region, resulting in much higher costs for the consumers in Tri-State's network. In 2018, they collectively paid **\$839 million more in electricity costs** than nearby city-dwellers, who purchase electricity from investor-owned or municipal utility companies.

In 2016, Kit Carson Electric in New Mexico became the first distribution cooperative to negotiate its release from Tri-State. In addition to the restrictive contract, Tri-State had the **"unilateral discretion" to set (and increase) rates**. When Kit Carson's attempts to revise the contract failed, leadership struck an **"amicable" deal to terminate the contract** and pay Tri-State an exit fee. Tri-State distribution members approved the contract termination with a vote of **44 to zero**. Kit Carson then signed a ten year contract with wholesale supplier Guzman Energy — a contract with **no self-generation cap**.

Kit Carson immediately saw **15 percent savings** on wholesale electricity from Guzman Energy. As of 2022, Kit Carson **has paid off its \$37 million exit fee in full** and is generating **100 percent of its daytime load with solar**. Even with the added burden of the exit fee, Kit Carson expects to save between **50 and 70 million dollars** over the course of its 10 year contract with Guzman Energy.

"Distribution co-ops have an obligation to exit to fulfill their member's expectations and requirements — that's why we were formed, for the members, and this tail wagging the dog that's occurred where the generation and transmission co-op is dictating to the distribution co-op what's good for us, it doesn't work anymore." — Luis Reyes, General Manager of the Kit Carson Electric Cooperative

Delta Montrose Electric Association followed suit in 2020. The Colorado distribution cooperative, like Kit Carson, signed a new supply contract with Guzman Energy for “**lower power costs, a cleaner energy portfolio, increased energy resilience,**” and the flexibility for members to generate **up to 20 percent** of the cooperative’s electricity needs locally. Delta Montrose’s settlement deal with Tri-State includes a **total payout of \$136.5 million** from Delta Montrose to Tri-State, which **Guzman Energy will partially finance**. Delta Montrose **expects to save millions of dollars** over the course of its 12 year contract with Guzman Energy.

Tri-State Places a Barbed Tourniquet to Stop the Bleeding

Kit Carson and Delta Montrose were not the only Tri-State distribution members with complaints. If the G&T wanted to stem the membership bleed and remain viable, something had to give. Giving, however, was not Tri-State’s first instinct. Though it



would later offer a compromise for some distribution members, Tri-State first tried to squeeze more money out of a discontented distribution cooperative.

United Power had asked the Colorado Public Utilities Commission (PUC) to calculate a buyout fee in 2019. Its contract with Tri-State was set until 2050, but United Power wanted out and was willing to pay a fair price. That same year, Tri-State recruited and began servicing several non-utility members — a change that the Federal Energy Regulatory Commission (FERC) used to claim sole jurisdiction over Tri-State’s exit fees. The D.C. Circuit Court of Appeals upheld this claim, to the dismay of United Power. The co-op had spent months at the Colorado PUC **developing a buyout methodology**. That work, and a **methodology favorable to United Power**, was scrapped when the issue moved before FERC.

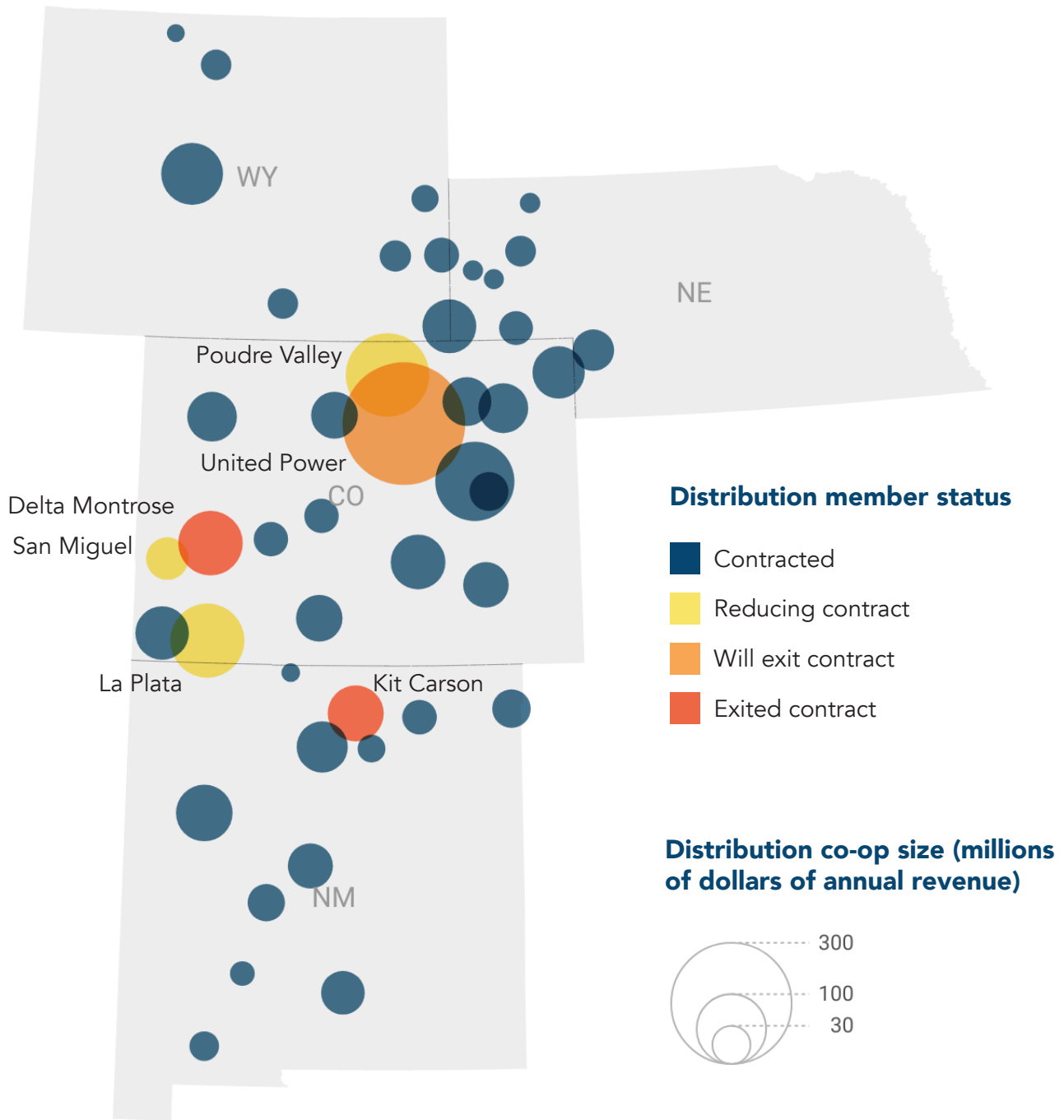
United Power **filed a lawsuit in 2020** alleging that the non-utility members “were recruited by Tri-State to interfere with United Power’s right to withdraw from Tri-State on equitable terms and thereafter conspired with Tri-State to unlawfully deprive United Power of **its right to petition the PUC** to establish a just, reasonable, and non-discriminatory exit charge.” At the same time, United Power continued its withdrawal process before FERC.

In 2021, United Power **officially filed to break its contract** and withdraw from Tri-State. This exit, in contrast to those of Kit Carson and Delta Montrose, will be a major loss – United Power accounts for **18 percent of Tri-State’s revenue** (Figure 3). The split takes effect on **May 1, 2024**. FERC has **rejected both Tri-State’s and United Power’s exit fee formulas** (Tri-State asked for \$1.6 billion, while United Power was willing to pay \$250 million). While it still waits for a decision, United Power has updated and published its **exit fee calculator tool** for other co-ops to use.

Figure 3.

Tri-State's Current and Former Distribution Members

Tri-State Generation and Transmission has distribution members in Colorado, Nebraska, New Mexico, and Wyoming. In recent years, several distribution co-ops have expressed dissatisfaction with Tri-State's service and moved for greater independence.



Map by Maria McCoy and Christine Parker, data from Tri-State and ProPublica's Nonprofit Explorer. Created with Datawrapper



Not All Quarrels End in a Breakup

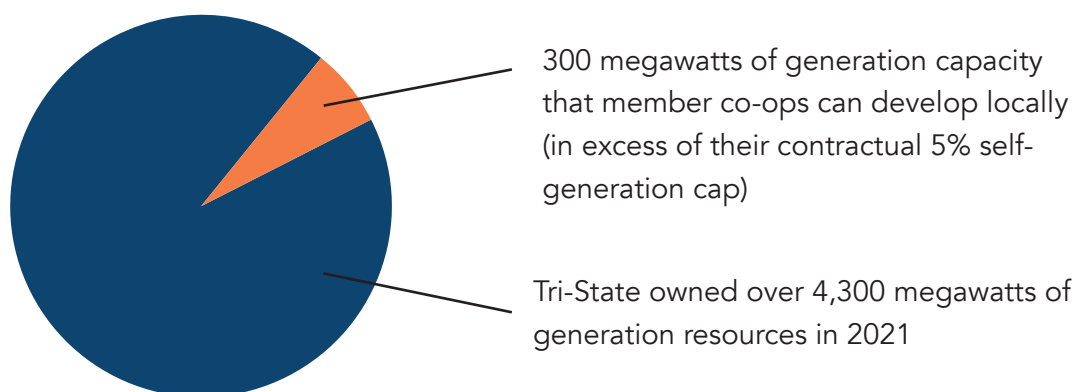
Many distribution co-ops have explored the idea of independence, but for one reason or another, did not buy out the contract with their supplier.

In an effort led by La Plata Electric Association, **La Plata and six other distribution cooperatives** asked FERC to estimate the cost of terminating their Tri-State power supply contracts. Three of these cooperatives, including La Plata Electric Association, Poudre Valley Rural Electric Association, and San Miguel Power Association have settled for a partial buydown rather than a full withdrawal. If FERC approves the settlement, each co-op can self-supply **up to 50 percent** of its own electricity load — 203 megawatts in aggregate. The distribution cooperatives must each pay a to-be-determined **contract buydown fee**. This contract buydown negotiation was only available during an “open season” for **up to 300 megawatts** of self-supply capacity within Tri-State’s network overall (Figure 4).

Figure 4.

Tri-State Gives Up a Small Slice of the Energy Supply Pie

Tri-State’s “Open Season” allowed members to share in 300 megawatts of self-supply capacity.



Data from Tri-State’s 2020 Integrated Resource Plan

In other conflicts between distribution members and a G&T, their contracts (and a court's interpretation of them) have prevented their exit.

In 2022, two court decisions separately **dashed the hopes of distribution cooperatives in South Carolina and South Dakota**. In the South Carolina case, Marlboro Electric filed a 2020 complaint against Central Electric Power Cooperative when the supplier would not provide terms for an early withdrawal. The District Judge on the case later ruled that Central Electric was not obligated to provide terms and contract termination **could only happen through "mutual agreement."** Similarly, Dakota Energy took its supplier East River Electric Power Cooperative to court when the G&T co-op would not name its buyout price. A District Judge ruled that the contract and bylaws **did not allow for early termination** and dismissed the case. Dakota Energy has filed an appeal, saying its contract has "been abused" in **a letter to its member-owners**.

*"These agreements that run through 2075 have been abused as a pass through for the annual \$100 million loss of the for-profit Dakota Gasification plant in North Dakota. Dakota Energy's member-owners' money has been entrusted to East River and Basin to make wise and beneficial decisions. They have not done so. Dakota Energy wants East River and Basin to honor its contractual commitments. Dakota Energy and other members should not be held captive to continually inflated rates as a result of bad investments made by Basin." — Dakota Energy in a **member newsletter**, February 2021*



East River Electric Power Cooperative buys some electricity from Basin Electric, a North Dakota 'Super G&T' that has its own discontented members. Distribution member Mckenzie Electric **filed a lawsuit against Basin Electric** centered around rates and a failed coal gasification facility. Mckenzie Electric also sent an inquiry to Basin Electric over the cost of terminating its membership, to which Basin Electric responded with a resolution that none of its members could terminate their contracts early.

Meanwhile, after some **friction over coal power plants**, the largest G&T in Minnesota and one of its distribution members came to an amicable agreement to adjust their contract. Connexus Energy and Great River Energy have signed a **novel power supply agreement** that allows Connexus Energy more flexibility **as a customer, rather than a member-owner, of Great River Energy**. Connexus Energy can use that flexibility to install more of its own clean energy generation, like its **Ramsey County solar array**.

Breaking Free

Starting with Kit Carson Electric in 2016, many distribution cooperatives have broken or tried to break free from their restrictive power supply contracts.

2016

Kit Carson

Kit Carson Electric (New Mexico) becomes the first distribution cooperative to negotiate its release from Tri-State.

2019

Delta Montrose

Delta Montrose (Colorado) reaches a settlement deal with Tri-State.

2020

Delta Montrose

Delta Montrose (Colorado) officially exits its contract with Tri-State and signs with Guzman Energy.

Mckenzie Electric

Mckenzie Electric (North Dakota) sends an inquiry over its contract termination cost to Basin Electric.

2021

United Power

United Power (Colorado) files its intent to break its contract with Tri-State.

Marlboro Electric

Marlboro Electric files a complaint against Central Electric Power Cooperative, Inc.

2022

Dakota Energy Marlboro Electric

Dakota Energy and Marlboro Electric's bids to break their respective supply contracts are rejected in court. Dakota Energy has filed an appeal.

Dakota Energy

Dakota Energy sues East River Electric Cooperative, Inc.

2023

Connexus Energy

Connexus Energy becomes a customer, rather than member-owner, of Great River Energy.

2024

United Power

United Power expected to officially leave its Tri-State contract.



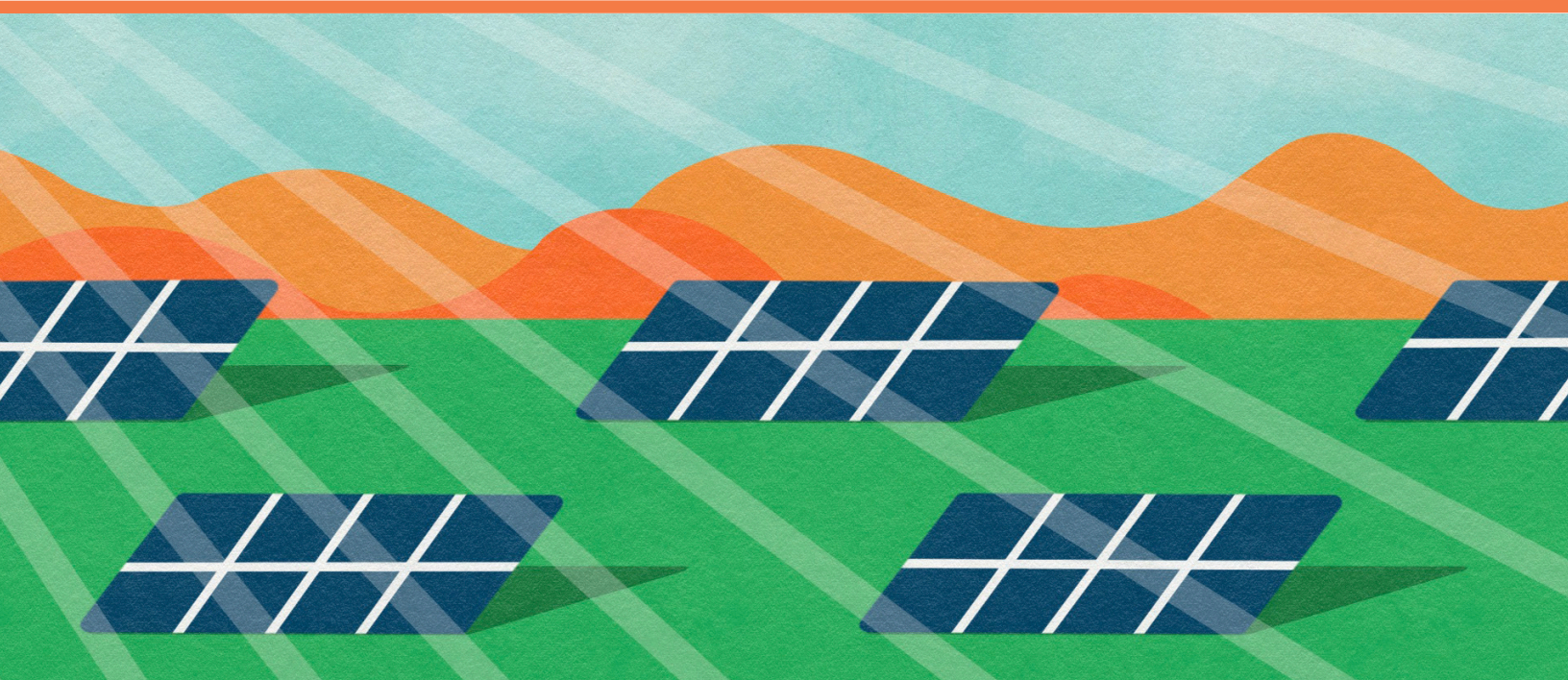
When Some Distribution Co-ops Leave, Others Gain Leverage

Just as cities have used municipalization — a public takeover of a private utility — **as a negotiating tool** with the for-profit utilities that serve them, threatening to break a supply contract may be enough to pressure a generation and transmission cooperative into changing its ways. After losing members from its network, a G&T may offer remaining members a better deal to avoid further losses.

Since Kit Carson and Delta Montrose’s early departures, Tri-State has:

- Reduced the number of projected **rate increases**.
- Developed a “**Responsible Energy Plan**,” which includes a target of 70 percent clean electricity for its members by 2030.
- Offered several flexible contracts and more opportunities for self-supply (although **capped at 300 megawatts total** for all of Tri-State’s distribution members).
- Filed a resource plan in Colorado committing to **retire all in-state coal plants by 2030** and create a just transition plan for coal communities.

G&T co-ops have argued that exiting members will saddle those who remain with more than their fair share of collective debt owed for power plants and other infrastructure. Tri-State, for one, owes **at least \$3 billion**. However, there are **\$14.7 billion dollars** earmarked in the federal Inflation Reduction Act to help co-ops build clean energy systems and reduce their debts. This figure includes \$5 billion to help utilities retire coal power plants (a fund that **Tri-State lobbied for**).



Conclusion

Rural electric cooperatives have reached an inflection point. Where the G&T model used to capture economies of scale, it is now trapping distribution cooperatives in restrictive contracts and holding them to a dependence on coal — all at the expense of cooperative members.

Some distribution cooperatives have seized initiative and, in demonstrating the value of breaking free, shown G&Ts what can happen if they discount the needs of their members. In particular, former Tri-State distribution members have created a blueprint for exiting a bad contract, transitioning to renewable energy, and saving member-owner dollars. Other distribution cooperatives have found the advantages of exploring all options, including negotiating for more flexibility from their wholesale suppliers and advocating for changes in the G&T resource mix.

Given unprecedented federal funding and the heightening economic advantage of clean energy resources, electric distribution co-ops must take this opportunity to move toward a clean, resilient, and affordable energy economy — with or without their G&T suppliers.