

Co-op requests confidentiality agreements prior to rate hearings

By J.R. Logan

The Taos News, January 27, 2011

Kit Carson Electric Cooperative is asking that state Public Regulation Commission (PRC) employees and protesting co-op members sign a confidentiality agreement before the co-op will release information about its diversified activities.

The PRC will review a proposed rate hike by the co-op, and questions about cross-subsidization between the electric, propane and telecom divisions is expected to be part of the investigation.

The co-op is concerned that “competitively sensitive, trade secret, attorney/client privileged, restricted from disclosure, or otherwise confidential information” would otherwise be made public during the rate hearing.

In a motion filed Friday (Jan. 21) with the PRC, the co-op contends that information about the propane, telecom and broadband divisions is sensitive and would damage the businesses if it were made public. The co-op also claims that the terms of a contract between it and Chevron Mining, Inc. should be deemed sensitive and be subject to the same confidentiality agreement.

The motion for protective order from the co-op reads: “Because Kit Carson’s diversified activities and businesses operate within a competitive market, and the market pricing associated with the power contract for CMI (Chevron Mining, Inc.) is competitively sensitive information and otherwise restricted from disclosure by the terms of that contract, disclosure of such financial information, business strategies, market pricing and contract terms, and other competitively sensitive information related to these activities would result in unreasonable economic harm to Kit Carson’s diversified business and place them at a competitive disadvantage, as well as to CMI.”

Co-op CEO Lu's Reyes told *The Taos News* Wednesday (Jan. 26) that the confidentiality agreement was “pretty standard.”

The motion specifically states that co-op members are entitled to view all co-op documents, but it asks that they too sign a confidentiality agreement.

“It’s fair for the members to examine the documents as long as they’re doing it to understand how the business works and not to undermine the propane (business),” Reyes said. “There’s nothing to hide.”

The Public Regulation Commission (PRC) will decide whether to grant the co-op the protective order.

The commission has scheduled a pre-hearing conference for Feb. 2 to “address scheduling and other pertinent issues in the this case.” The meeting is open to the public.

Some protesters are planning an organizational meeting to prepare for the hearings in Santa Fe. They plan to be at the Juan I. Gonzales Agricultural Center Monday (Jan. 31) from 5:30 to 6:30 p.m.

Attorneys for Chevron Mining, Inc. have also filed a motion to become party to the case, claiming that it is the only Kit Carson customer serviced under the proposed “market-based rate schedule.”

Chevron Mining, Inc. operates the mine just east of Questa and is by far the co-op’s largest customer. Chevron is projected to account for \$1.8 million — or 42 percent — of the total \$4.3 million increase requested by Kit Carson.

But the PRC’s order to suspend rates for six months while it conducts a rate review includes all rate categories, including the market-based rates. Before announcing its rate hike, the co-op spent months negotiating a contract with Chevron to restructure how the mine is charged for electricity.

Rodney Gains with Chevron Mining, Inc. told the PRC at a Jan. 10 public hearing that he was concerned that the delay to the rate implementation would negatively impact the mine’s operational costs.

The subsequent motion that was filed Jan. 19 reads: “Chevron is currently the only customer eligible for service under Proposed Rate 29 (market-based rate), and its interests can therefore not be represented by any other party to this case.”