

PRC sets rules for electric co-ops in Tri-State rate-hike dispute

By J.R. Logan

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In preparation for what could be a protracted court battle, the Public Regulation Commission (PRC) has established a timeline to deal with a dispute between three New Mexico electric cooperatives and the wholesale power supplier that provides them with electricity.

Denver-based Tri-State Generation and Transmission gave notice of a rate increase and rate design change in October. Kit Carson Electric Cooperative, Springer Electric Cooperative and Continental Divide Electric Cooperative (based in Gallup) are all protesting the changes.

In an order issued last week, the PRC gave Tri-State until Nov. 29 to file a response to the protests. The co-ops, in turn, will have seven days to respond once the PRC receives Tri-State's arguments.

The new rates are scheduled to go into effect Jan. 1.

"This is going to be a tough case, and we need to provide reasonable due process to both parties," said PRC commissioner Jason Marks.

Under state law, if three or more co-ops protest such a rate increase, the PRC can order a hearing on the validity of the rates if it can find "just cause" in the co-op protests. If a hearing is ordered, state law gives the PRC the authority to suspend the proposed rates.

Tri-State is adamant that it does not fall within the PRC's jurisdiction and calls the law "unconstitutional."

In its written protest, Kit Carson co-op said the rate changes will penalize members who conserve energy and jeopardize the co-op's bottom line. Tri-State says the rates are "modernized" and will more equitably split costs among its 44 member co-ops. The PRC discussed the issue at its meeting Nov. 15, and commissioners acknowledged that the disagreement could become more complicated.

"I think everybody knows that what's slurring underneath here is that Tri-State doesn't believe that the statute is lawful, and perhaps there's some probability, maybe some high probability, that this will end up in court and not at the PRC," said commissioner Doug Howe, who represents Taos' district.

In addition to setting dates for written responses, the PRC scheduled a "mediation session" between Tri-State and the protesting co-ops for Nov. 26. Commissioners showed restrained

optimism about the prospects of mediation, and there was consensus that the commission needed to establish a “parallel path” to address the dispute in case an agreement is not reached.

PRC chairman Pat Lyons said the PRC was putting a “tremendous amount of pressure” on the co-ops protesting the rates. Lyons said he’d been contacted by large energy consumers in his district, who would see rate increases of as much as 15 percent.

“It’s a case that’s going to be very delicately handled, and I hope the protesters stay in there so we can get a shot at looking at this huge rate increase,” Lyons said.