

PRC suspends Tri-State's proposed rate hike

By J.R. Logan

The Taos News, 12/27/2012

The New Mexico Public Regulation Commission has suspended a rate hike that would have raised electric bills for Kit Carson Electric Cooperative members by an estimated 5 percent starting Jan. 1.

Tri-State Generation and Transmission — the co-op's wholesale power supplier — gave notice of the increase in October, prompting protests from Kit Carson and two other New Mexico co-ops.

Under state law, the PRC can suspend the rate hike and order a review if three protests are filed and the commission believes there is "just cause" to review the rates. At its meeting Thursday (Jan. 20), the commission voted to do exactly that, stopping the rate increase and calling for a investigation of Tri-State's proposed increase. Tri-State has adamantly argued that it is beyond the PRC's jurisdiction and has said it will take the issue to federal court if the rates are suspended.

Denver-based Tri-State provides electricity to 1.5 million consumers through 44 coops in New Mexico, Colorado, Wyoming and Nebraska. It is governed by a board made up of a representative from each member co-op. Tri-State argues it is involved solely in inter-state commerce and concludes that the New Mexico law is unconstitutional.

Tri-State agreed to the terms of the state law as part of a merger approved by the PRC in 2000 between Tri-State and Plains Generation and Transmission. If Tri-State does not submit to regulation under that law, staff at the PRC have suggested that the agency take another look at the approval of the 12-year-old merger.

In a statement, spokesman Lee Boughey said Tri-State was "disappointed" with the PRC's decision, which he said would "cause immediate injury to [Tri-State's] members."

Boughey did not specifically say whether Tri-State would take the issue to court. "We will evaluate the commission's order and take appropriate steps to protect the interests of all of our member cooperatives," his statement said.

Boughey questioned the co-op's logic in protesting the rates, saying the increase would result in a net savings for Kit Carson customers.

Kit Carson CEO Lu's Reyes countered that claim, saying the co-op didn't have enough information to be sure what the effect of the new rates would be. The co-op has also taken issue

with a change to Tri-State's rate structure, which the co-op believes will punish users who have pushed for energy conservation.

Reyes said last week that the co-op was "very excited" about the PRC's decision, adding he hoped Tri-State would submit to a review to justify its increase in public. "In the end, we just want to make sure there's a fair review [of the proposed rates]," Reyes said.

Tri-State has insisted the increase and rate design change are necessary to shore up the company's bottom line and spread costs equally among member co-ops.

If Tri-State takes the matter to court, Reyes said it would raise questions about the legitimacy of those claims and give the appearance that Tri-State has something to hide.

Boughey called Reyes' statement "baseless." Kit Carson and Tri-State have been at odds for years, mostly over a contract that limits the amount of renewable power the co-op can generate on its own to 5 percent. That contract does not expire until 2040.

Since becoming Kit Carson's primary source of electricity in 2000, Tri-State has implemented nine rate hikes. None of those increases came under the scrutiny of regulators.

If the matter does go to court, the state law will likely be defended by the New Mexico Attorney General's office. However, litigation could go on for years, and attorney fees for Tri-State and the co-op would eventually be shouldered by ratepayers.

Reyes called those expenses a necessary investment to get to the heart of Tri-State's rate structure and overall business practices.