

## **Regulators deny Tri-State's second rate hike request**

**By J.R. Logan**

*The Taos News, 3/21/2013*

State regulators have shot down a rate hike that would have increased the cost of power to Kit Carson Electric Cooperative members by 9 percent, saying the increase could be perceived as punishment.

The Public Regulation Commission (PRC) voted last week to deny a request from Tri-State Generation and Transmission — Kit Carson's wholesale power supplier — that would have implemented varied rates for the 12 co-ops it serves in New Mexico.

Last December, the PRC suspended a previous rate hike and rate redesign request from Tri-State after three New Mexico co-ops, including Kit Carson, protested.

The new rates would have gone into effect at the beginning of 2013. An investigation into those rates is pending, and Tri-State filed a new request for additional rate hikes, arguing that the increase was needed in order to make up for revenue lost because of the original rate suspension.

Under that proposal, rates for nine non-protesting co-ops would have gone up about 5 percent (the same as the original rate increase). However, the proposal called for a 9 percent rate increase for the protesting co-ops.

In its order denying that request, the PRC said that allowing the variable rates to go into effect "would be perceived as punishing the protesters."

The order also stated that Tri-State did not sufficiently show that the original rate suspension was detrimental to its "financial integrity" or would directly result in a failure to provide services.

The PRC's unprecedented decision to suspend Tri-State's rate hike request late last year has set off a series of legal challenges.

While Tri-State continues to participate in the rate case ordered by the PRC, it has simultaneously filed a lawsuit in federal court asking a judge to rule that Tri-State is beyond the jurisdiction of the PRC. Tri-State argues that it is involved solely in interstate commerce and is therefore immune from state regulation because of the commerce clause of the U.S. Constitution.

However, PRC staff and representatives of Kit Carson counter that Tri-State agreed to limited regulation when it was allowed to merge with the co-op's former power supplier more than a decade ago.

At the same time, three Colorado co-ops served by Tri-State have filed complaints with regulators in that state, opposing Tri-State's proposed changes.

While the New Mexico coops question Tri-State's need for higher rates, they also argue that a revised rate structure would hurt co-ops that push for energy conservation and energy use during "off-peak" times.

Kit Carson has long been at odds with Tri-State over a clause in its power supply contract that limits the amount of renewables the co-op can generate to just 5 percent of its total energy consumption.

The first hearing at the PRC in the Tri-State case is scheduled to take place in October.