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Kit Carson CEO Reyes says Tri-State break has two big advantages

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Kit Carson Electric Cooperative has agreed to pay $37 million to get out of its wholesale power contract, which the coop has blamed for holding back development of solar energy in Taos.

“In some sense, we won’t have someone watching over our shoulder,” co-op CEO Luis Reyes told *The Taos News .*

The exit from Denver-based Tri-State Generation and Transmission is expected to become official June 30.

The co-op plans to buy electricity from a Florida-based power marketer for at least the next 10 years.

Kit Carson and Tri-State have been at odds for years over a number of controversial issues. Perhaps most notably, a provision in a power supply contract — one that does not expire until 2040 — limited the amount of renewable electricity the co-op could generate on its own to 5 percent. The co-op is up against that ceiling and has complained that the limit has stifled the development of solar power production in Northern New Mexico.

Tri-State has said the provision was necessary to ensure it sold an adequate amount of electricity.

The co-op has also complained that Tri-State had regularly imposed “arbitrary” rate increases and had been unwilling to subject itself to regulation. Tri-State again countered that it was beyond the jurisdiction of state regulators. The issue led to a lawsuit in federal court.

The withdrawal agreement since June 21 appears to resolve those and other conflicts with a clean break that both sides are calling amicable.

“I don’t think they’re happy to see us go,” Reyes told *The Taos News .* “It does show that something wasn’t right and we weren’t able to fix it. I do think for [Kit Carson and Tri-State], it was in our bests interest to have this departure.”

Reyes said leaving Tri-State had two clear advantages: certainty on the price of power and freedom to expand locally generated renewable energy.

The same day the exit was announced, Kit Carson said it had signed a long-term power purchase agreement with Florida- based Guzman Renewable Energy Partners. Under the 10year Guzman contract, Reyes said the co-op knows exactly what the price of power will be through 2026. Until the deal closes, Reyes said he could not reveal those prices.

As for renewables, Reyes said more flexibility doesn’t necessarily mean members should expect solar arrays to start popping up across the co-op service territory overnight.

“Our intent is to get more solar on the system, but do it smartly and over a period of time,” he said.

The $37 million question

In a June 27 filing with the U.S. Securities and Exchange Commission, Tri-State said Kit Carson had agreed to make a “net cash payment” of $37 million before the deal closed.

Reyes said he could not reveal the source of the money until the payment was complete.

He did say where the money would not come from. “We’re not borrowing. There won’t be any loan. And it will not show up on our balance sheet,” Reyes said.

The payment of tens of million of dollars has already raised concerns from some co-op members, including those currently protesting Kit Carson’s proposed rate increase.

Reyes did say he was satisfied that the co-op managed to talk Tri-State down significantly from its opening offer. “In the context of where we were at, we did a pretty good job,” Reyes said, noting that $37 million to get out was a “fair” result that would ensure Kit Carson’s departure wouldn’t cause electric rates to go up for the 43 co-ops that still rely on Tri-State.

Lee Boughey, a spokesman for Tri-State, declined to go into detail about how it calculated the $37 million figure.

In 2015, Tri-State reported net margins of $53.4 million. That year, Kit Carson bought $21 million worth of power from Tri-State, accounting for 1.62 percent of Tri-State’s total sales.

It’s hard to know exactly how much of a profit Kit Carson generated for Tri-State and what Kit Carson’s financial contribution would have been through the end of its contract.

Tri-State’s net margins were 4.1 percent of its annual operating revenue in 2015. At that rate, Tri-State would have made about $867,700 by providing electricity to Kit Carson in 2015.

Multiplied over the remainder of the contract term, Tri-State would have made $20.8 million in profit from Kit Carson between now and 2040, though that figure does not take into account many variables (like the notoriously volatile price of electricity) and is far from exact.

Kit Carson was awarded $958,000 in “capital credits” for 2015, which are theoretically the co-op’s share of Tri-State’s margins. Through 2040, that would add up to around $23 million.

The $37 million buyout price comes out to $1.54 million to Tri-State for every year remaining in the contract.

Peter Adang, who sat on the Kit Carson board until a few months ago, wrote on an online blog in November 2015 that said Tri-State was originally demanding a $132 million exit fee, or about $5.25 million for every year remaining on the contract.

Neither Reyes nor Boughey would confirm that number, citing non-disclosure agreements.

In the same blog post, Adang also hinted at ways the co-op might be able to buy out of its Tri-State contract. Adang wrote that the co-op could “roll” the exit fee into the price it pays for power, meaning its power supplier could pay the $37 million upfront and the co-op would pay it back through a surcharge on the price of electricity.

Based on 2015 demand, coop members would have to pay an extra 1.27 cents per kilowatt hour to pay back $37 million in 10 years with no interest.

Cost of power

A news release announcing the Kit Carson/Guzman power contract called the deal “a significant step in giving members greater flexibility at a lower cost.”

Corporate records show Guzman Renewable Energy Partners was incorporated in June 2015. The company is affiliated with Guzman Energy LLC, which was launched by the investment bank and brokerage firm Guzman & Co. in 2014.

The release said the new contract would save Kit Carson customers “in excess of $50 million” over the next decade. Reyes said that figure was based on a lower cost for electricity.

According to its 2015 annual report, the co-op’s average cost of power from Tri-State was 7.26 cents per kilowatt hour. If the co-op expects to save $50 million over the next 10 years and the price of energy remained constant, the co-op’s cost per kilowatt hour would have to drop to 5.54 cents per kilowatt hour.

On May 13, Guzman Renewable Energy Partners got “market- based rate authorization” from federal regulators, meaning the company could wholesale electricity outside the traditional “cost-based” rates.

Instead of asking regulators for an increase when their costs go up, Guzman and Kit Carson agreed on specific prices ahead of time.

Chris Riley, president of Guzman Energy, told *The Taos News* his company can offer cheaper electricity because it has much less overhead compared to a generation and transmission behemoth like Tri-State.

“This is what we do. This is what we launched the business for,” Riley said. “For Kit Carson, they wanted more flexibility, and we were able to come in and provide that for them.”

This is not Guzman’s first foray into New Mexico. In January, Guzman Energy announced it would be the primary power provider to the city of Aztec.

The Taos News obtained a copy of the power sales agreement between Guzman and Aztec from the city government under a request for public records this week.

The contract shows Guzman would sell electricity to the city for 4.950 cents per kilowatt hour. As part of the deal, the company agreed to build a $2 million solar facility that is expected to generate 8 percent of the city’s total power supply.

The contract stipulates that Guzman is not required to buy renewable energy instead of fossil fuels when purchasing electricity for the city.

Riley would not disclose if there are any such requirements in the Kit Carson contract, but he did say the co-op would meet mandatory renewable benchmarks set by state law.

A game changer

During its lengthy dispute with Tri-State, Kit Carson sometimes framed the fight as a “David-versus-Goliath” battle over green energy, pointing to Tri-State’s heavy investment in coal-fired power.

In fact, many of the cooperatives served by Tri-State are in heavily coal-reliant areas of Wyoming and Colorado, where the transition to natural gas production and some renewables has already had a devastating impact to local economies.

But Boughey insisted Tri-State has been “very bullish on renewables” and has “very progressive renewable energy policies.” The irreconcilable breakdown with Kit Carson had more to do with the terms of the contract, Boughey said.

Leaving Tri-State will likely mean Kit Carson has more room to expand its solar portfolio, but other cooperatives have recently found ways to lean more on locally generated renewable power without a fullscale exit.

Delta-Montrose Electric Cooperative in western Colorado recently won approval from federal regulators to buy hydroelectric power from a third-party generator. Tri-State opposed that deal, saying it violated the 5 percent cap.

Regulators ruled June 16 that Delta-Montrose did not have to pay an extra surcharge if it bought electricity from that provider instead of Tri-State.

Virginia Harman, vice president of member relations and human resources for Delta-Montrose, told *The Taos News* her co-op was excited about the ruling and the economic opportunities that might come from expanding local renewable generation.

She declined to comment on whether Delta-Montrose intended to follow Kit Carson’s lead and leave Tri-State.

Tri-State was not concerned that Kit Carson’s exit would set a precedent. “We haven’t received any requests from any other members about withdrawing from the association,” Boughey said.

For solar proponent Bob Bresnahan — a board member with Renewable Taos and newly elected member of the Kit Carson board — walking away from Tri-State is a game changer.

In an interview, he called the contractual limit on local generation “the principal obstacle to expanding renewable energy in our community.”

Bresnahan acknowledged that the Delta-Montrose example could apply to Kit Carson, but he also noted that Tri-State would have fought tooth and nail against every project proposal, delaying progress and costing a fortune in legal fees.

With Tri-State out of the way, Bresnahan hoped Northern New Mexico might suddenly be more attractive to developers who want to erect arrays to sell to Kit Carson and beyond.

“We’re on this ride now, and it’s an opportunity for our community to really lead,” Bresnahan said.

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