

SEC Co-op defies PRC ruling

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By John Larson, El Defensor Chieftain staff writer

In a special meeting conducted last Friday, the Socorro Electric Cooperative Board of Directors voted to appeal the Public Regulation Commission's rejection of its proposed rate increase.

"I would entertain a motion to direct our legal counsel to appeal the PRC ruling," District V trustee and Board President Anne Dorough said. "Is there any discussion?"

District III trustee Donald Wolberg said he considered the pros and cons of appealing.

"It struck me that if we don't appeal we are acquiescing to what is an improper and incorrect outcome," he said. "If we do appeal, we have the chance that we won't prevail, but we'll have it on the record that we appealed, which may be handy if this goes to court. So, I'm for appealing."

Luis Aguilar, District III trustee, said he took issue with comments made by the hearing examiner in reaching her decision.

"I feel that perhaps there was some bias," Aguilar said. "Perhaps if the higher court will listen to our appeal and read through the documents I think we will have a good outcome."

District III trustee Leroy Anaya agreed with Aguilar. "We need to go forward and appeal. We can't sit back now."

Michael Hawkes, the trustee of District IV, said in his experience with administrative judges he is familiar with what judges place their adjudications on.

"I understand we need to make a statement," Hawkes said. "I just know that based upon higher courts' view of lower courts' ruling that there is a possibility of it being remanded back for another review."

Or upholding the original decision, he said.

"With that being said, I will follow the majority," Hawkes said. "With the understanding that we may be needing to find other solutions in the future."

District I trustee Paul Bustamante said he believed the hearing examiner's ruling showed favoritism toward the City of Socorro and what he referred to as "the mayor's agenda."

"I think it was biased and discriminatory," Bustamante said. "I don't think it should have gone this far and us having to appeal it. But I favor an appeal. It's too bad we have to go through this cost just to make a statement. I am strongly for the appeal. I don't feel this should have gone this far. I think we were singled out with the mayor's (Socorro Mayor Ravi Bhasker) agenda."

Before asking for a vote, Dorough said she wanted to share with the board a section of the New Mexico statute governing public utilities.

"This is from Section A, Paragraph 3," she said. "It says, 'Experience has also proven that rural electric cooperatives are substantially different from investor-owned utilities, particularly relative to setting rates. Under

the Rural Electric Cooperative Act, rural electric cooperatives are nonprofit membership corporations whose members have direct control over the cooperative's rates through an elected board of trustees.”

“Which would indicate that the board is supposed to set the goal and the rates for the cooperative,” Dorrough said.

The appeal means the cooperative will ignore the PRC and go directly to the Supreme Court.

The vote was unanimous.

In a separate action, the board decided to postpone the retirement of capital credit “until it is to be determined to be fiscally responsible.”

Capital credits are allocated to each member. When the co-op has net earnings, or margins, these margins are returned to member-owners based on patronage; under normal circumstances after 25 years.

"I would like to note that the reason for this is because of what the co-op is being put through with the recent PRC hearing administrator and the hardship the co-op is going through right now," Hawkes said. "Therefore, fiscally we are at risk, and this necessitates a re-evaluation of distribution of patronage capital at this time."

By unanimous vote, the retirement of patronage capital from 1993 will be postponed indefinitely.