

Co-op hears recommended bylaw changes

by [John Larson](#) | February 5, 2015 | Filed under: [News](#)

After nine years of contention, polarization and distrust, members of Socorro Electric Cooperative will have an opportunity to, in effect, wipe the slate clean and start all over again.

This was the gist of a presentation by Aaron Christensen of the law firm Smith & Christensen LLP in Charlotte, North Carolina. Mandated by the Board of Trustees in June, 2014, to study problem areas, Christensen laid out his bylaw recommendations over a two-day session, Jan. 28-29, at Macey Center on the New Mexico Tech campus.

“These proposed bylaws are based on a commitment to openness, transparency and democratic control,” he said. “Service, rates, transparency and democratic control by members. These are the most important factors for an electric cooperative, and I believe these bylaws will accomplish that.”

Some of the sweeping changes proposed in the new bylaws include increasing the number of districts, reducing tenure of trustees and the elimination of district-only voting.

Aware of the differences of opinion, Christensen said, “Keep an open mind.

“There will be some changes you like, and changes you don’t like. Nobody will get everything they want,” he said. “Consider the big picture.”

One change that may have the biggest effect is that all members will be able to vote for any trustee candidate, regardless of the district.

“Socorro is in a small minority of cooperatives that still uses district-only elections, rather than at-large voting for all seats,” Christensen said. “Only three of the 15 other New Mexico electric distribution cooperatives still use district-only voting.”

He said district-only elections allow a candidate to win an election by appeal to a localized and relatively small group of members rather than focusing on the broader interests for the entire membership. “And they are of an enormous cost to the cooperative,” Christensen said.

The most recent district elections cost members over \$63,000. In three of those districts there was no quorum and their combined cost was about \$25,000.

“When something is expensive, counterproductive, time consuming, unappreciated by the members, and provides no clear advantages Socorro should stop doing it,” he said, “District-only voting is one of those things.”

Christensen said district-only elections had their purpose in the past, “but they have outlived their usefulness. At one time, district-only elections tended to serve some purposes when fewer people had vehicles or other means of travel and lacked access to means of electronic communication.”

The report states that at-large trusteeships tied to residential districts is intended to, among other things, allow any and all members, regardless of residence, to campaign and vote against any sitting trustee who is perceived to be acting contrary to the best interests of the cooperative, while minimizing the likelihood of potentially destructive and polarizing infighting regarding or redistricting.

“This will also prevent trustees from obtaining or maintaining a seat by attempting to serve the interests of a narrow constituency,” Christensen said. “So all members should be entitled to vote in all trustee election contests.”

He said current board structure contributes to the grandstanding and jockeying for political power, “and is counterproductive to the goals of providing reliable electric power at the lowest possible cost consistent with sound business judgment.”

“Trustee conduct has been appallingly bad, which reflects negatively on almost every facet of the cooperative’s interests,” Christensen said.

Accordingly, the new bylaws outline qualifications for trustees and trustee candidates.

“Enhanced qualification standards will help ensure the integrity of individual trustees and the board,” Christensen said. “Inadequate training also puts too much power in the general manager.”

Another change affecting trusteeship is reducing the term from four to three years.

“Few people can make the time commitment for board service,” Christensen said. “If trustees are falling short in their service to the cooperative, they should stand for election every three years so the members can make a change.”

He added that since a cooperative benefits from highly-trained and experienced trustees term limits are unproductive.

The new bylaws also increase the number of trustees from five to seven.

Christensen said one of the reasons the number of trustees was cut back from eleven to five was a history of wasteful spending, but “with this small number the board has further crumbled into dysfunctional factions.”

“Most people we spoke to during our investigation ... agreed that there should be at least seven members on the board of trustees,” he said. “By setting the number of trustees at seven, there will be more incentive to cooperate rather than ‘conquer.’”

This means the number of districts will also increase from five to seven.

The report also said it was important for cooperatives to pay their trustees a level of compensation “sufficient to attract and retain talented professionals, executives and community leaders to the board.”

“Cooperatives are nonprofit, but they are not charities,” Christensen said in reference to the current \$15 board members are paid to attend meetings. “Trustees should not, in effect, be expected to volunteer their time and talents.”

On the other hand, Christensen recommended that trustees not be permitted to participate in the employee benefit plan, which he said was a primary driver for why one of the cooperative’s former trustees received nearly \$36,000 in compensation.

“Both he and his family were receiving health care coverage through the cooperative,” he said.

“Such participation also tends to blur the distinction between hired employees and elected Trustees, drives up the cost of maintaining benefit plans for employees, and sometimes creates improper incentives for wanting to remain in office.”

Membership eligibility

“Cooperatives operate under the principle of ‘one member, one vote,’ meaning membership is open to any natural person or legal entity,” Christensen said. The new bylaws specify that it has to be one or the other. Sole proprietorships and DBAs cannot have a separate membership, he said.

“This bylaw provision also prevents confusion over whether security light accounts and other secondary services away from the primary residence will rise to a second vote – they do not under the new bylaw proposal.”

Membership lists

The new bylaws will allow trustee candidates to obtain a list of the names of members in their districts for campaign purposes.

Meeting of members

Christensen said the current structure of member meetings is expensive “and has spawned many of the controversies that embroil the cooperative in ‘Jerry Springer-like’ conduct.”

“They are an embarrassment to the cooperative, the community and the electric cooperative industry,” he said. “Even cooperatives on the East Coast know about Socorro.”

He said the new bylaws will bring Socorro into the mainstream of industry practices.

“Conduct member meetings in the same way as a vast majority of electric cooperatives throughout the country,” he said.

Annual meetings

The new bylaws retain the substance of the current bylaws and preserve the three percent quorum requirement.

“Absence must not be used to effectively amplify the vote, power and influence of a small contingent of members that remain at a meeting,” Christensen said. “There is nothing democratic about using other peoples’ absence toward a quorum.”

His recommendations include abandoning the practice counting wristbands in voting at annual meetings.

“Voting should be by secret ballot,” Christensen said, not unlike voting in political elections.

He also recommended a return to providing food or refreshments at annual meetings.

Special meetings

The new bylaws allow the board to call a special meeting, and in the interest of democratic control, also allow members to call a special meeting.

In giving notice of member meetings, Christensen said, “Genuine democratic control requires effective notice so everyone can have time in advance to study any proposed bylaw amendment and determine if they are in favor or opposed.”

Effective notice, combined with ballot initiatives for amendments will also address the quorum challenge at several of the recent meetings.

Rates

But what about current rates? Christensen compared rates from a chart provided by the website www.electricitylocal.com.

Taking an average of 525 kWh per month, a typical residential consumer’s total average monthly bill from Socorro Electric would be in the middle of the pack relative to other cooperatives in the state, according to the chart.

“Consumers could expect their average bill – at \$80.63 – to be somewhat higher at seven of the other New Mexico cooperatives, but somewhat lower at the other seven cooperatives in the state,” Christensen said.

The proposed bylaws include provisions to mirror the state’s public inspection requirements.

Christensen also gave a brief lesson on another bone of contention at board meetings, Capital Credits, and discussed why they should not be retired on a member’s request.

“Capital credits are not cash in the bank. There is no bank account holding ‘capital credits’. They are only bookkeeping entries to reflect the patronage capital contributions to the system,” he said. “Capital credits are that transformer up there. The poles, the transmission lines, substations, the office building. Capital credits are what you, as a member, have invested in the operation of the cooperative.”

Christensen said part of the electric bill each month is a commitment to set some small percentage of money aside in capital credits to help finance the system. “That’s at the heart of what a cooperative is,” he said.

The current cycle for retirement is 25 years.

“It is unfair to move estates to the head of the line when other members and former members must wait several years for the general retirement to run its course,” he said.

Other recommendations by Christensen include utilizing social media like Twitter and Facebook.

He said members could be informed of time sensitive information such as planned maintenance outages immediately, as well as be updated on meeting times, etc.

After the meeting, Board of Trustees President Anne Dorough said she has high hopes for the passage of the new bylaws, and encourages active participation by the members.

“I sincerely hope that all the members and the community leaders throw their support behind this initiative to provide the SEC Board of Trustees and management with the proper tools to do their job,” Dough said. “Mr. Christensen has put a lot of effort into developing a modern set of bylaws and policies to help the Cooperative be more efficient and productive.”

She said the first step in implementing these changes is the responsibility of the Board of Trustees.

“We must review and approve the new policies,” Dorrough said. “But the greater responsibility belongs solely to the members of the cooperative. They must exercise their right of democratic control and vote to accept or reject the new bylaws.”

Acknowledging that the current bylaws are a fragmented and expensive disaster, Dorrough said, “Here is an opportunity for the members to replace them with a modern, workable set of guidelines for governance of the cooperative.”

Socorro Mayor Dr. Ravi Bhasker expressed guarded optimism after the presentation.

“This is still just one shoe,” he said. “The second shoe has got to drop, and that’s for them to adopt it. And (Christensen’s) comment was that it’s got to be all or none. It can’t trifled with it.”

Bhasker said he was largely pleased with what was presented by Christensen.

“I think it’s a good, positive step. I like what he’s presented,” he said. “And if you look at some of the resolutions I asked for at the district meeting, it covers it pretty well.

“We’re not into the old story of throwing the baby out with the bathwater,” he said. “We want to save the baby. We just want to change the bathwater. It’s a little dirty.”

Although Bhasker had spearheaded a proposal to discontinue the City’s franchise agreement with the co-op, he said, “I think if the city had not been proactive about all this, this study by Mr. Christensen would never have come about.”

Bhasker said, “Like (Christensen) said, the board is dysfunctional and everybody, not just in the Socorro or Catron area, everybody in the country says that. People know about it.”

The 48 page document also includes a table of contents, making it easier to reference a particular article or section.

“If adopted, Socorro Electric will be in a position to become an industry leader throughout the state in the area of cooperative governance,” Christensen said.

The new bylaws and analysis can be read in its entirety on the co-op’s website www.socorroelectric.com. Click the Board Governance Report link on the home page.

The City of Socorro’s website also provides a link to the report at www.socorronm.gov.