

Changes to SEC bylaws may continue Saturday

by [John Larson](#) | May 14, 2015 | Filed under: [News](#)

Socorro Electric Cooperative's 70th annual membership meeting is coming up Saturday.

It will be held in Macey Center's main auditorium. Registration will be 1 to 3 p.m. with the business meeting beginning at 3 p.m.

Although the new bylaws are in effect, many are still skeptical. Members are encouraged to attend to meet the quorum requirement of about 300 in order to conduct business. Immediately after the annual meeting, the Board of Trustees will hold its monthly meeting, also in Macey Center.

Based on comments made after the April 25 special meeting and letters to the editor in El Defensor Chieftain, the opposition faction — spearheaded by District II trustee Charlie Wagner — is expected to continue seeking changes.

One bylaw that has generated raised eyebrows is Section 2.09, which has been taken to mean that the cooperative will be allowed to collect fees in perpetuity, even if there is a reduction in consumption.

This is what Section 2.09 says about "reduction in cooperative services":

"As required or allowed by law, and as determined by the board, if a member substantially reduces or ceases the use, receipt or purchase of electricity from the cooperative, then the cooperative may charge the member, and the member shall pay to the cooperative, the reasonable costs and expenses incurred by the cooperative in reliance on prior assurances regarding the anticipated future use of electric service by the member."

In trying to clarify the reason for the bylaw, board president Anne Dorough told El Defensor Chieftain that residential consumers never give prior assurances regarding the anticipated future use of electric service — it doesn't happen generally and it doesn't happen when members obtain a cooperative loan to pay for "aid in construction."

"However, and although it is unlikely to occur, there could be a situation where the cooperative agrees to finance 'aid in construction' for a large commercial/industrial account through a specially-negotiated rate," Dorough said. "In that event, for example, the cooperative could spend \$2 million to upgrade a substation for one customer's needs based on assurances of future use. Then, if that industrial account failed to live up to its end of the bargain, every other member would be stuck with stranded costs."

According to Dorough, the section is there to protect members from being stuck with the cost of infrastructure someone else asked the cooperative to build based on false promises of future revenue.

Another bone of contention among skeptics is the belief that members will not reap any benefits of generating personal renewable energy, but Dorough maintains that Socorro Electric's rate schedule actually supports and promotes the use of renewable energy.

"The new bylaws explicitly ensure that members are allowed to generate their own electricity," she said. "As stated in Section 2.08, '...nothing in these bylaws shall be construed as a limitation on the members' ability to generate solar or wind power, or to use electric generators or other methods of self-generation of electric energy, for personal consumption.' It can't get any clearer than that.

"In fact, Socorro will pay residential customers the retail rate for excess energy they send back to the cooperative from systems of 10Kw or smaller," Dorough said. "That means Socorro is paying homeowners retail rates for excess energy when the cooperative would otherwise be paying wholesale rates to Tri-State."

On top of that, she said, the cooperative also pays consumers for their renewable energy credits (RECs).

“But if there is any tax advantage for members in keeping the RECs, they are absolutely free to keep the RECs for their own purposes,” Dorough said.

A third bylaw being questioned has to do with Section 5.09, which has been interpreted as the Board of Trustees being able to expel another board member by a simple majority vote.

Dorough said there is no clause that allows a majority of the board to expel a fellow trustee on a whim.

“Any rumors to the contrary are false,” she said.

Dorough likened the bylaws of the cooperatives to the U.S. Constitution.

“If the President of the United States does something really bad — treason, bribery or other high crimes and misdemeanors — Congress could impeach the President and remove the President from office,” Dorough said. “The U.S. Constitution also states that each house of Congress can set its own disciplinary rules and vote to remove a member from the House or Senate. That is how the greatest democracy in the history of the world operates. That is also how Socorro Electric operates under its new bylaws.”

Section 5.09 of the new bylaws, consisting of one sentence, reads, “Upon a trustee’s loss of membership status under Article III of these bylaws or loss of eligibility or qualification under Section 5.02, such trustee’s seat shall be declared vacant by the remaining members of the board and such vacancy shall be filled in accordance with Section 5.10.”

The two sections referenced in the bylaw outline qualifications for a trustee and the procedure of filling a vacant trustee seat, and establish requirements that trustees (and candidates for trustee) need to uphold in maintaining their eligibility.

“The bylaw does not establish that a trustee can be removed on the whim of the board. Any claim like that is false,” Dorough said. “There are only narrow and specific rules when removal could happen. In any event, no court in this state would uphold such shenanigans, which is the ultimate check and balance.”

Presumably, the new bylaws will now give the Board of Trustees the go-ahead to look at the prospect of removing Wagner from the board.

“The other point is this,” she said. “If the trustees behave responsibly, this will never be an issue.”

The City of Socorro is still looking at options for renewing its franchise agreement with the co-op, as reported in last week’s article on the city council meeting.

Immediately after this Saturday’s meeting, the co-op’s Board of Directors monthly meeting will be held.

One item that may be on the agenda — the agenda will not be finalized until 72 hours prior to the meeting — is the board’s response to a letter from the co-op’s insurance carrier, Federated Rural Electric Insurance Exchange. The letter announced that it will cancel its policy with the SEC on July 1, unless certain steps are taken. Those steps included the passage of the new bylaw package, which went into effect in April.

At issue is the perceived threat of a lawsuit for sexual and racial discrimination.

SEC’s General Manager Joseph Herrera said Federated indemnifies the directors, office and management (DOM) but also insures cooperative property and employees. If Federated drops the DOM, the membership must bear the costs in case of legal challenges or lawsuits.

“Federated is not a risk pool, but rather an insurance exchange, which means its costs are shared with all the cooperatives it insures,” Herrera said.

The letter states that its losses are shared among all the co-ops.

“It is not up to one system to drive up the costs for all the other systems,” the letter said.

Herrera said Federated looks at the “behavior of the co-op management and its record of possible legal issues.”

Accusations of impropriety had been leveled in the past against Wagner.