

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE FILING OF)
ADVICE NOTICE NO. 69 BY SOCORRO)
ELECTRIC COOPERATIVE, INC.)
)
SOCORRO ELECTRIC COOPERATIVE,)
INC., APPLICANT)

Case No. 18-00383-UT

CITY OF SOCORRO'S MOTION TO FILE REPLY

COMES NOW Intervenor City of Socorro ("the City"), by and through its counsel, Stelzner, Winter, Warburton, Flores & Dawes, P.A., moves pursuant to 1.2.2.12 (C)(1)(D) NMAC, and respectfully requests the Commission to file the attached Reply to the Response of Socorro Electric Cooperative, Inc. ("SEC") to the Commission's Order to Show Cause, filed April 20, 2022. Because the Commission's Order to show cause did not contemplate input from other parties and arguments and positions stated by the respondents are contrary to both law and fact, the response of the City is warranted.

The parties' position to this Motion are as follows: Socorro Electric Coop opposes the Motion; NM Tech concurs with the Motion; Staff has no position on the Motion; Don Steinnerd supports the Motion.

Dated this 26th day of April, 2022.

Respectfully submitted,

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SEC’S RESPONSE TO ORDER TO SHOW CAUSE

COMES NOW Intervenors City of Socorro (“the City”), by and through its counsel, Stelzner, Winter, Warburton, Flores & Dawes, P.A., and files its Reply to Socorro Electric Cooperative, Inc.’s (“SEC”) Response to Order to Show Cause. In reply, the City states as follows:

1. SEC’s Response is not supported by law or fact, and as such should be given little or no weight. SEC asserts, without citation to any case law or statute, that it cannot be in violation of a Commission Order because “[i]n the American jurisprudence system, an appealed order or verdict does not have the force of law and is not enforceable while the challenged decision is on appeal.” SEC’s Response at ¶1. SEC provides no citation for this claim, which is directly contrary to NMSA 1978, §62-11-6.¹ New Mexico Courts have long held that where arguments are not supported by cited authority, the Court will presume counsel was unable to find supporting authority, will not research authority for counsel, and will not review issues unsupported by authority. *See In re Adoption of Doe*, 1984-NMSC-024, ¶ 2, 100 N.M. 764, 676 P.2d 1329.

2. Further, SEC’s response undermines its own argument. At paragraph 4, SEC argues that collecting the requested information will take 30-45 days to compile, only to be immediately followed by SEC’s assertion that implementing the final rates as ordered would only

¹ “The pendency of an appeal shall not of itself stay or suspend the operation of the order of the commission”. NMSA 1978, §62-11-6.

result in a \$400 refund to each member of the irrigation class. SEC Response at ¶5. This statement is also not supported by any verification by an SEC representative, affidavit or otherwise provided calculations. The conclusion that a single rate class is impacted is facially contrary to the findings of the Recommended Decision (“RD”). Further, and more to the point, the RD found that “[i]ncreased revenues should be collected from the ... Irrigation Service Classes” and recommended “a 3%, or \$1769, base revenue increase to the Irrigation Service Class.” RD at 15-16.

3. However, *if* SEC is to be taken at its word regarding this de minimis \$400 (admittedly a tall order for the Commission considering SEC’s continued flouting of Commission Orders and repeated attempts to misinform and mislead its member customers²) that means that for \$400 SEC has:

- (1) incurred hundreds of thousands of dollars of fines and attorney’s fees over a two-year period;
- (2) caused intervening parties to spend valuable time and resources defending interests that they have already prevailed on; and
- (3) wasted the time and resources of the Commission.

As such, the City believes additional sanctions are warranted, including attorney’s fees for the intervening parties, authorized under 1.2.2.25(J) NMAC and the New Mexico Rules of Civil Procedure.

² *E.g.*, SEC’s violations of multiple Commission Orders in this docket, including the current order which required notice of these very compliance issues prior to SEC’s annual meeting and board elections, misleading its members about its intent to comply with the Final Order in this case, and SEC’s lawsuit against all of its own members to avoid member directives to comply with the New Mexico Open Meetings and Inspection of Public Records Acts. *See* City and Tech’s Joint Verified Response to Initial Order on Remand, filed 2/23/22 at ¶¶ 12-13 and City and Tech’s Joint Response to SEC’s Second Emergency Motion to Stay, filed April 15, 2022 at ¶4.

WHEREFORE, for the foregoing reasons, the City requests that SEC's response be stricken and that the Commission uphold the relief granted in the revised compliance order, award additional sanctions, and any other relief the Commission deems just and reasonable.

Respectfully submitted,

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