

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE FILING OF)
ADVICE NOTICE NO. 69 BY SOCORRO)
ELECTRIC COOPERATIVE, INC.)
) **Case No. 18-00383-UT**
SOCORRO ELECTRIC COOPERATIVE, INC.,)
APPLICANT)
_____)

STAFF’S REPLY TO RESPONSES

Pursuant to the directive of the Commission in its February 9, 2022 Initial Order on Remand, Utility Division Staff submits its Reply to the Responses of Socorro Electric Cooperative (“SEC” or Cooperative”), the City of Socorro (“City”), and the New Mexico Institute of Mining and Technology (“Tech”).

Responses to Questions in Initial Order

1) Do you support or oppose the Final Order and state reasons?

Unsurprisingly, in light of their appeal, SEC opposes the Final Order, while the City and Tech support it.

Staff notes that the Commission issued its Final Order on September 11, 2019, adopting the Hearing Examiner’s Recommended Decision in its entirety. That Final Order remains in effect to this day, and will remain so unless and until the New Mexico Supreme Court says differently.

2) Do you support oppose the Compliance Order, and state reasons?

SEC states that it opposed the Compliance Order because it exceeds the Commission’s authority and imposed fines against SEC Trustees individually without due process. The City and Tech state that they support the intent of the Compliance Order and most of the Compliance Order’s provisions.

Staff notes that the Compliance Order was issued on April 15, 2020 in response to a Verified Motion to Compel (“Motion to Compel”) filed on April 3, 2020 by the City, Tech, and Staff. That Motion to Compel was brought by the named parties because SEC had ignored, and indeed continues to ignore, the directives in the Final Order adopted by the Commission. Staff thus supports the Compliance Order and its enforcement.

3) Is SEC intending to comply with the Final Order, and if so, when, and if not, why not?

SEC states that it has appealed the Final Decision and is awaiting the Supreme Court’s Decision. The City and Tech have asserted that SEC has demonstrated that it does not believe it is subject to regulation.

Staff has no information on whether SEC intends to comply with the Final Order. However, Staff notes that, while SEC requested a stay of the Commission’s Final Order on the day it filed its appeal with the Supreme Court, the Commission denied that request on October 30, 2019. SEC subsequently filed an Emergency Writ of Mandamus and Motion to Stay (Emergency Writ”) before the Supreme Court. That Emergency Writ has not been granted by the Supreme Court. As the Final Order is still in effect, and no stay of the Final Order has been granted by either the Commission or the Supreme Court, Staff believes that SEC should comply with the Final Order immediately.

4) Are your positions identical to that stated in your Briefs filed in S-1-SC 38302 and S-1-SC 37948 and if not, what position is changed and in what manner?

SEC, the City and Tech all state their positions are the same as those set forth in their Supreme Court briefs.

Staff is not a party to the Supreme Court proceedings and has not set forth any positions in that forum.

5) What rates have been charged by SEC and/or paid by Tech and the City since the date of the Final Order?

SEC asserts that it is charging the rates that were in effect prior to filing Advice Notices 69-71, and that no rates have been changed pending the outcome of its appeal before the New Mexico Supreme Court. The City and Tech both concur that they are paying the rates that were in effect prior to the Final Order.

Staff agrees with all parties that SEC is charging the same rates in effect prior to the Final Order, and that it is unaware of any rates that have changed.

6) Is SEC currently in compliance with the Final Order; and if not, reasons?

SEC, the City and Tech all state that SEC is not currently compliant with the Final Order. SEC claims that it is awaiting the decision of the New Mexico Supreme Court that it believes is holding the Final Order in abeyance.

Staff agrees with the other parties that SEC is not in compliance with the Final Order. Staff is unsure of the basis for SEC's claim that the Final Order is being held in abeyance. As noted previously, neither of SEC's requests for a stay from either the Commission or from the New Mexico Supreme Court have been granted. It is thus not clear that anything is being held in abeyance.

7) Should the Compliance Order be revised and/or withdrawn?

SEC believes the Compliance Order should be withdrawn. The City and Tech disagree and argue the Compliance Order should be enforced.

Staff believes the Compliance Order should not be withdrawn unless and until SEC is in compliance with the Final Order. Until that time the Commission should act to enforce the Compliance Order.

8) What revisions should be made to the Compliance Order?

SEC believes that the Compliance Order should be withdrawn in its entirety, while the City and Tech state that there should be no modifications to the Compliance Order that do not result in SEC's immediate compliance with the Final Order, retroactive to the Final Order. The City and Tech further suggest that SEC should be required to track and account for all decreases that would have resulted from rates ordered in the Final Order, and be ordered to issue refunds to the date of the Final Order.

Staff has not identified any necessary changes to the Compliance Order. As noted above, Staff believes the Commission should act to enforce the Compliance Order.

9) Have the parties been in negotiations since the Compliance Order?

SEC, the City and Tech each indicate that they have not been engaged in any negotiations related to SEC's rates. SEC states that it has consented to participate in mediation but that the City and Tech have declined.

Staff has not participated in any negotiations regarding this case.

10) If so, what areas of agreement and/or disagreement remain amongst the parties?

SEC states that this question is not applicable. The City and Tech claim that SEC feels that it is immune from regulation, and that it continues to force its customers to purchase expensive services that do not meet customers' needs.

Staff believes that SEC is not currently in compliance with the Commission's Final Order in this case, and that absent a stay or a determination by the New Mexico Supreme Court that the Final Order should be reversed, SEC should be required to comply with that Final Order.

11) What proposed resolution of the matter is desired to be able to file a stipulated joint motion of dismissal of all New Mexico Supreme Court appeals?

SEC requests that the Commission rescind the Final Order and Compliance Order and allow SEC to implement the rates sought in its Advice Notices 69-71. The City and Tech recommend that SEC immediately implement the Final Order and withdraw all appeals.

Staff believes that SEC is not currently in compliance with the Commission's Final Order in this case, and that absent a stay or a determination by the New Mexico Supreme Court that the Final Order should be reversed, SEC should be required to comply with that Final Order.

Staff Review of SEC 2020 Annual Report

As directed, Staff has reviewed SEC's 2020 Annual Report. Staff's observations are set forth in the attached report prepared by Bryce Zedalis, Utility Division Economist.

Respectfully Submitted,

/s/ Bradford A. Borman
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REPORT OF BRYCE ZEDALIS, UTILITY DIVISION ECONOMIST

Electricity Sales

- Total KWh purchased by SEC remained largely stable from 2018 through 2020 with the total purchased ranging from 192 million KWh to 193 million KWh over this period. The cost of each KWh purchased likewise remained stable at around 7.6 to 7.7 cents/KWh.
- Total KWh sales across all rate classes from 2018 until 2020 were as follows:
 - 2018: 178,393,749 KWh
 - 2019: 179,446,499 KWh; a 0.59% increase from 2018
 - 2020: 178,058,787 KWh, a 0.77% decrease from 2019
- By rate class, KWh sales were the following:

<i>(in KWh)</i>	2018	2019	% Change from 2018	2020	% Change from 2019
Residential Sales (excluding seasonal)	66,201,877	68,094,203	2.86%	69,954,804	2.73%
Irrigation Sales	472,015	300,124	-36.42%	528,736	76.17%
Comm. and Ind. 1000 KVA or Less	75,887,763	74,273,230	-2.13%	71,566,672	-3.64%
Comm. and Ind. Over 1000 KVA	35,063,600	36,016,062	2.72%	35,250,702	-2.13%
Public Street & Highway Lighting	768,494	762,880	-0.73%	757,873	-0.66%

- Total % of KWh sales by rate class (rounded):
 - Residential: 37% in 2018, 38% in 2019, and 39% in 2020
 - Irrigation: Less than 0.5% from 2018 to 2020
 - Commercial: 42% in 2018, 41% in 2019, and 40% in 2020
 - Large Commercial: 20% from 2018 to 2020
 - Public Street and Highway Lighting: Less than 0.5% from 2018 to 2020
- Unlike some of its peer cooperatives, SEC’s electricity sales remained reasonably steady through the first year of the COVID-19 pandemic. Overall, sales remained stable as well as the rate class mix of sales.

Statement of Operations

- Topline Operating Revenue and Patronage Capital fell by 0.44% from 2018 to 2019, and then declined again by 1.57% from 2019 to 2020 to reach \$24,721,698.
- From 2018 to 2020, the Cost of Purchased Power grew slightly from \$14,807,827 to \$14,905,737.
- Operations-related Distribution Expenses saw a 10.6% increase from 2019 to 2020, rising to \$1.96 million from \$1.77 million.

- Total Operation and Maintenance Expenses varied minimally between 2018 and 2020, ranging from \$19.86 million in 2018 to \$19.74 in 2019 and to \$19.89 million in 2020.
- From 2019 to 2020, Interest on Long-Term Debt decreased by 29.30% from \$2.01 million to \$1.42 million. NB: Current Maturities on Long-term Debt declined during this period by roughly \$700 thousand, and by \$1.1 million since 2018.
 - The Debt Service Coverage (DSC) Ratio for SEC:
 - 2018: 2.52
 - 2019: 2.67
 - 2020: 3.41
 - This ratio has improved over time, though for the reasons noted immediately above
- The Total Cost of Electrical Service provided by SEC declined by 0.38% from 2018 to 2019 fell again by 1.74% from 2019 to 2020.
- Operating Margins for SEC fell by approximately 3% from 2018 to 2019, but then increased by 6.23% between 2019 and 2020.
 - The Operating TIER for SEC:
 - 2018: 1.37
 - 2019: 1.33
 - 2020: 1.51
 - This metric has improved in 2020
- Net Operating Margins similarly fell between both 2018-2019 and 2019-2020 by 16.57% and 11.8%, respectively. The reduction from 2019 to 2020 is largely attributable to a decrease in the Non-Operating Margins – Interest account and to that of Generation and Transmission Capital Credits.
 - The Net TIER for SEC:
 - 2018: 1.86
 - 2019: 1.76
 - 2020: 1.94
 - This metric has improved in 2020

Operations and Maintenance Expenses

- SEC's Total Customer Accounts Expense grew by 8.06% from 2019 to 2020; from approximately \$833 thousand to \$900 thousand.
- Amount due from customers over 60 days increased from \$399,524 in 2019 to \$557,311 in 2020.
- Both Administrative and General Salaries and Outside Services Employed fell from their 2018 highs.
- After submission of the rate application in question, Regulatory Commission Expenses have declined precipitously from 2019 when they totaled nearly \$372 thousand.

Utility Plant Value

- The 2019 beginning balance of Total Utility Plant amounted to \$84,789,127 and increased to \$85,885,672 by year's end.
- By the end of 2020, the Total Utility Plant balance reached \$87,522,545.

Balance Sheet

- From 2019 to 2020, Total Assets from \$73.78 million to \$80.32 million. This increase is predominantly a function of a \$6 million increase in SEC's Cash – General Funds account. A corresponding significant increase in long-term debt guaranteed by RUS between 2019 and 2020 is noted – this due to a recent loan taken out by SEC.
- Total Long-term Debt now held by SEC was \$43.67 million in 2020, which up from \$35.41 million and \$36.51 million in 2019 and 2018, respectively. Long-term debt is up nearly 20% since 2018.
- The Long-term Debt to Total Asset Ratio for SEC:
 - 2018: 0.49
 - 2019: 0.48
 - 2020: 0.54
 - This ratio has trended negatively for SEC's balance sheet health over time
- The Current Ratio for SEC has evolved as follows (note that values less than 1.00 are generally viewed as a sign of underperformance):
 - 2018: 0.66
 - 2019: 0.695
 - 2020: 2.42; this increase relating to the aforementioned increase in its cash account
 - This ratio has seen a positive balance sheet health improvement, but the increase in 2020 is a result of long-term borrowing undertaken by SEC

Rule 510 Form 1 Filing

2020	Residential	Other	Total		Residential % Change from 2019	Other % Change from 2019	Total % Change from 2019
Number of Customers	10,353	2,640	12,993		1.12%	3.41%	1.58%
KWH Sales (Thousands)	69,955	108,104	178,059		2.73%	-2.92%	-0.77%
Gross Revenues	10,929,476	13,677,524	24,607,000		2.56%	-4.26%	-1.34%
Avg. Annual KWH per Customer (1)	6,756.96	40,948.48	13,704.21		1.59%	-6.12%	-2.32%
Avg. Annual Bill per Customer (2)	\$1,055.68	\$5,180.88	\$1,893.87		1.42%	-7.41%	-2.88%
Avg. Monthly Bill per Customer (3)	\$ 87.97	\$ 431.74	\$ 157.82		1.42%	-7.41%	-2.88%
Avg. Gross Revenue per KWH Sold (4)	\$ 0.156	\$ 0.127	\$ 0.138		-0.64%	-0.78%	-0.72%

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AFFIRMATION

I have prepared and am familiar with the foregoing **Report of Bryce Zedalis, Utility Division Economist**, filed in the above-captioned matter and, upon penalty of perjury under the laws of the State of New Mexico, affirm that the facts, statements, representations, and positions set forth therein are true and correct to the best of my knowledge, information and belief.

Dated this 2nd day of March 2022.

/s/ Bryce Zedalis
Bryce Zedalis

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CERTIFICATE OF SERVICE

I CERTIFY that on this date I sent to the parties listed here, via email only, a true and correct copy of **Staff's Reply to Responses.**

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DATED this March 2, 2022.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Peggy Martinez-Rael, electronically signed

Peggy Martinez-Rael, Paralegal

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