

July 21, 2009

Mr. Sandy Jones, Chairman
New Mexico Public Regulation Commission
P. O. Box 1269
Santa Fe, NM 87504-1269

Dear Chairman Jones,

You have our gratitude for your efforts to hear our comments June 8, 2009 at Socorro City Hall. Though your efforts were well intentioned, the plight of the member/owners of SEC has only gotten worse. Because of this we ask you to comply with our letter and petition sent to you on 4/13/2009 by granting a formal hearing before the PRC.

More pressure from the public and the press has been placed on majority trustees, and in desperation the manager and board are reacting with open hostility, disrespect and anger toward members and me in board meetings. It is getting dangerous to attend the board meetings. I was assaulted and verbally abused after our last board meeting by trustee Milton Ulibarri, whose excessively loud and nose to nose cursing was intended to intimidate me and my guests as we entered my car after the meeting. In addition to that hostile and undignified act, Leopoldo Pineda Jr. the general manager, is using the co-op's small advertising budget (\$20,000) to punish the editor of the El Defensor Chieftain for his report of the Annual Meeting, which you attended, and he has also told the Mountain Mail's advertising agent that no ads would be placed in that paper until he saw their report on the meeting you hosted at city hall. He obviously did not like either report. Co-op advertising is being withheld from both local papers.

The reform committee has engaged an attorney, as to the advisability of legal action against the board and management of our cooperative. I think the board is aware of this and aware that their dirty tricks in blocking member participation over several years but especially over the past two years, with almost full time scrutiny by the public and the press, will not go away.

In that regard, many of our members are in sympathy with Commissioner Mark's caution that "a law suit would be costly" and we all realize we would be suing ourselves. For that reason we must seek your aid or that of the Attorney General. Otherwise a law suit is the only option available. As members we pay a board appointed attorney, who we think has a duty to represent the interest of the co-op, meaning the interest of the 10,000 members. Each member is owed by contract and law an equally weighted vote which is impossible without districts of substantially equal member populations. The actions taken by the President of SEC, Mr. Bustamante, and Trustee, Harold Baca, to shut down the annual members' meeting in violation of the bylaws, also defeats the members' control. Their action confirms the overwhelming evidence previously compiled. The attorney in collusion with majority trustees will not tolerate member participation in the process by which bylaws and governance of the co-op are achieved.

From about mid year 2007 until now efforts to influence the board to follow the bylaw's assigned duties to: reapportion voting districts (more than 30yrs over due), allocating and notifying members annually of capital credits, make adequate preparations to conduct fair elections and voting, etc. have met illogical and unreasonable resistance from those trustees. The attorney placing their interest above the co-op's, argues against the cooperative's interest giving them comfort as long as no higher authority enters the picture.

The Annual Meeting is the perfect example. Three hundred thirty six members registered. Article III, Section 6 of the bylaws, *QUORUM at ALL Meetings* states, "3% of the total number of members registered shall constitute a quorum." So as long as there were ten members present business and voting could have been conducted and any action taken by a majority of those ten members would have been the act of the co-op.

By pre arrangement between the attorney (s), Bustamante and Baca, a choice was made to go against the bylaw (and in opposition to the interest of the co-op) and use Roberts Rules of order as the authority for declaring no quorum. Authority for all corporations' bylaws follows the same hierarchy which is as follows: The US Constitution, Federal Law, State Law, Articles of Incorporation, Bylaws and last Policies. Robert's rules of order might be acceptable if bylaws did not address the question of quorum. That is not the case here.

Ms. Aguilar, the attorney, made a choice which clearly answers the question many members had repeatedly asked. Who does she represent? Had she chosen to use the bylaw's definition of quorum, the 244 members still present after Baca's fraudulent claim, might have heard the reports of trustees, the financial state of the co-op from its treasurer for the first time since 2004. The members may have had the opportunity to propose alterations to the bylaws, debate deliberate and arrive at a mutually beneficial meeting of the minds. I don't know which way they would have voted on the district V proposed resolutions, but whether for or against would have been ok. They would have exercised their right to vote. That is what the board majority and the attorney schemed to prevent. They would not tolerate members having democratic control of the co-op.

The appearance that the legislature gave the PRC regulating authority created an expectation that you may have been able to compel the board of SEC to live up to the terms of its contract with the member consumers. If that is not the case, your commission still has the ability to have the Attorney General intercede on behalf of SEC's consumers.

According to his web site the Attorney General serves in a number of official legal capacities, including being the guardian of the public interest. In practice, he will also be 'the people's lawyer.' By its terms SEC's bylaws are a contract that binds the co-op and each member as if each had entered an individual agreement to abide by its terms. The board through its misconduct has breached the contract with each of its consumers. If the PRC can not be the utility consumer's advocate, then the Attorney General as the state's consumer advocate may agree to get involved. If you feel it is not

the job of the PRC to assist us, please appeal to the AG on our behalf and reply to me at your convenience.

Sincerely,

Charlie Wagner, Trustee District V
Socorro Electric Cooperative, Inc.
P.O. Box 252
Magdalena, NM 87825