

Debts mounting for Beartooth Electric

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By Eleanor Guerrero, Reporter Carbon County News,

On December 14, the U. S. Bankruptcy Court will receive the basis for a plan from Trustee Lee Freeman for Southern Electric Generation and Transmission Cooperative (Southern) for the future of Southern. Beartooth Electric Co-op (BEC), four other small rural co-ops and Great Falls accepted responsibility for Southern's debts through their representatives on Southern's board. If the agreements hold, they will be held liable for some or all of the debts that may total over half a billion dollars. BEC attorney Larry Martin advised the BEC board at a meeting held Friday, November 30 at the Red Lodge Area Community Foundation. He said while it is hoped that the debts will be substantially reduced by the court, the trustee's first obligation is to the creditors.

Southern is a company that was formed by five local co-ops to investigate and ensure future power sources. The co-ops were: BEC, Tongue River Electric Cooperative, Inc. (Tongue), Fergus Electric Cooperative, Inc. (Fergus), Mid-Yellowstone Electric Cooperative, Inc. (MYEC), Yellowstone Valley Electric Cooperative, Inc. (Yellowstone).

A decision followed to construct Southern's own coal fired plant, Highwood Generation Station (HGS), at a cost originally set at \$300 million but costs ballooned to over \$900 million. When finance obstacles occurred, Southern decided to build a 40 megawatt gas-fired plant. Before the construction of the \$85 million plant was completed, the board voted to borrow \$200 million more but bankruptcy was declared before it was obtained. Boyd said HGS is not producing power for sale.

The federal Rural Utility Service (RUS) holds over \$7 million dollars in BEC loans. Boyd informed the board that there is

no evidence that BEC ever notified RUS of the 2008 contract that allowed BEC contracts to become collateral for the HGS loan as required-nor received its approval. BEC will now notify RUS of this agreement.

Costs from HGS continue to grow, burdening the small co-ops. "Even now," Boyd explained, "Southern's books show \$800,000 in accrued gas transportation costs last month even though the transportation wasn't used because the plant isn't up and running." It is estimated to take an additional \$15-20 million just for the plant to become operational. Boyd warned that the co-ops should not confuse revenue to Southern with profit and think that the plant could run profitably. The energy market has plummeted and its debts are enormous.

BEC consists of approximately 4,000 members in Carbon and surrounding counties including Wyoming. The bankruptcy plan may determine whether BEC can survive. Regarding the upcoming hearing, Boyd advised, "We may or may not see a full blown plan at this time."

Boyd said they could expect the court to address additional issues: Yellowstone wants less than a 60 day wait from the Dec. 18 hearing to submit its plan. The City of Great Falls and BEC want all legal issues such as their lawsuits resolved before any plan proceeds. Great Falls also wants the investigative audit of Southern to be available beforehand.

BEC's concern is that the trustee may want to satisfy the creditors by paying as much as possible for HGS and by keeping Southern together. "We oppose that," she remarked. "Our study shows Highwood Generation Station is worth nothing close to what was paid-less than half its value. There is no value to BEC in staying (with Southern)." She said it was imperative to have a study distinguishing between Southern's revenue vs. return on investment.

The board approved the availability of budgeted but unspent funds to prepare for court as General Manager Richard Peck noted, "Our attorney team has been very frugal."

BEC was updated on a recent meeting of nonprofit Southern Montana Electric Generation and Transmission Company (SME). BEC is investigating a \$50,000 payment made by SME to Independent Electrical Supply Service (IESS) and a \$600,000 loan to Southern secured by SME property valued at \$1.2 million dollars. SME is composed of only four member co-ops including BEC. Theoretically, BEC could share in over 20 percent of any funds returned.

Boyd explained, "IESS President Keith Bales informed us that it was not a loan but an investment." But SME, said Boyd, "has no papers or documents" to support a loan or investment. "He also said IESS is not a distinct company from SME but its subsidiary," added Boyd. If true, it would change the situation dramatically.

"If SME were a creditor," explained Boyd, "it could submit a bill to IESS before IESS closes its doors." But as a corporate subsidiary, IESS pays its own debts without the need to first address the \$50,000 claim of SME, its parent company.

IESS is reportedly winding down its business since its sole purpose was to sell excess Southern power. Boyd requested a balance sheet and was told it would not be ready for a while.

The Trustee's basis for a plan (due Dec. 14) is just a start, subject to revision. The trustee's proposal asks for all plans to be submitted to the court by February 15, 2013 and the next hearing date is Dec. 18.