**Electricity Customers Suing For**

**City of Coleman to Sell System**

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**Coleman Growing In Spite of Itself**

Six new businesses – four retail stores, a brick oven pizza and a bakery – have sprung up recently in the four blocks of Commercial Avenue in downtown Coleman, with three more businesses—a winery, a farmer’s market and another restaurant on the drawing boards. What makes that amazing is that the growth has occurred in spite of what locals consider outrageous electric rates.

Some electricity consumers in the city of Coleman are suing the city to try and force an election to get the city to sell its electricity business because these consumers are paying what are perhaps the highest electric rates in the state of Texas. Depending on usage and type of account, users are paying anywhere from 17 cents/Kwh to over 30 cents/Kwh. To put that into perspective, if the accounts were OUTSIDE Coleman city limits, the rate with Coleman County Electric Cooperative would be 12 cents/Kwh, which is around the state average.

One fabrication company in town is now getting much of its electricity from its own welding machines instead of using city power.

The cost difference between the Coleman average rate and the state average rate amounts to over a 50% premium. But the rate by itself does not represent the total cost to residents of Coleman. There’s the sales tax on the premium and the property taxes paid on the interest and sinking fund portion of property taxes for Coleman utility bond amortization—if there were no electric utility bonds, there would be no tax to cover that bond cost.

Coleman city council meetings have experienced very heated discussions about the electrical issue and there have been meetings held with City Manager, Paul Catoe[[1]](#footnote-1); Consulting Engineer, Steve Moffitt[[2]](#footnote-2) of Schneider Engineering, Ltd.; and Austin utilities attorney, Geoffrey Gay[[3]](#footnote-3) of Lloyd Gosselink Rochelle & Townsend, P.C. All saying nothing can be done and all discouraging sale of the system.

However, a group calling itself ‘Power to Transform’ (PTT) claims that something can be done. PTT, a non-profit organization formed for citizen advocacy, has hired Sweetwater attorney Zollie C. Steakley[[4]](#footnote-4) and filed a Writ of Mandamus to force an election to sell. The group is led by Craig Allen[[5]](#footnote-5) who has business interests in Coleman.

PTT plans on having a public meeting, with their attorneys present, on January 14 at Heritage Hall, 400 West College Avenue, Coleman**,** Texas.

Coleman built its first power plant and distribution system in 1902. Unfortunately, the city did not continuously modernize the plant, so it was finally closed and later demolished. But the city kept the distribution system. The city, which had been purchasing some power to meet peak loads, was then in a situation that demanded the city purchase all of its power for resale.

In 2007 natural gas prices were rising rapidly, driving electricity prices up, and city leaders, on the advice of Moffit and fearing the trend would continue, negotiated a 10-year contract with AEP Energy Partners (AEPEP), a subsidiary of American Electric Power (AEP), to provide power at the then prevailing rate.

Less than two years into the 10-year Coleman/AEPEP contract, natural gas prices dropped dramatically, thereby lowering energy costs for most in the state. Coleman, however, was locked in to the high rate contract until the end of 2017.

Natural gas prices to electric utilities are currently less than half what they were when the Coleman contract was signed.

Some wonder if AEP could have foreseen the drop in natural gas prices due to the development of new shale fields. It turns out that AEP has forecasting assets not available to small towns like Coleman. AEP has long been a supporter of the Gas Technology Institute[[6]](#footnote-6), formerly known as the Gas Research Institute – an organization right in the middle of shale ‘fracking’ development[[7]](#footnote-7) which was the key element in lowering gas prices[[8]](#footnote-8).

City leaders and AEPEP have negotiated several changes to the contract since 2007 to avoid a city bancruptcy. Complete terms of the current contract are mostly confidential and so have not been released to the public. One of the changes to the original contract that has been released is that the contract is extended to the end of 2018. Coleman users have nearly three more years of high rates.

A strong proponent of the city keeping the system is retired businessman Roy Pogue who participated in some of the negotiations with AEPEP. Pogue is on one of the city’s economic development boards and is usually in attendance at city council meetings. He contributed to the campaigns of several of those currently serving on the city council.

Pogue has referred to the city’s electrical business as a ‘Golden Goose’. However, he lives outside the city limits, has no property in the city of Coleman and purchases his electricity from the CO-OP.

Coleman’s budget for 2014-2015 shows the city deriving a net of $1.2 million in excess revenues from its electrical system to support other city functions. However, based on what Coleman electric customers are paying over competitive electric rates, plus what they are paying in ad valorem tax utility bond costs, it costs the citizens of Coleman about $2.6 million over competitive rates for the city to get that net revenue.

Simply put, Coleman citizens pay over $2.00 in excess fees for each $1.00 the city gets from being in the electric business.

Although some say that it is critical to have the electric utility to fund the city, others claim that replacing the revenue shortfall can be done without incurring the dire consequences –raising other utility rates, increasing the tax burden, cutting services and firing city employees—predicted by city management. Those pushing for a sale argue that citizens will be better off with the city selling the system and they back their claims with numbers from the city’s own budget[[9]](#footnote-9).

Another proponent of selling the system is downtown resident, Eric Joffrion[[10]](#footnote-10). Joffrion says that, with the proceeds of the sale of the system, cash on hand held by the city, and a few other conservative actions, the city could pay off enough current liabilities to lower city operating costs to a level that would eliminate the need for the city to use the system as a profit center.

Advocates for selling the system also claim other reasons why Coleman should not be in the Electrical business. First and foremost that Coleman does not have the expertise to negotiate energy contracts or accurately predict energy costs.

Other reasons cited are questionable safety practices, economy of scale issues, electrical rates paid by all the tax-supported entities in the City (School, County and City), and the property taxes that would be paid by a privately owned utility to the city and to other entities in the community – the hospital and school districts and to the County.

There are roughly 400 cities in Texas with populations similar to or greater than that of Coleman. Of those 400 cities, 72 have municipally-owned electric utilities. The other 300+ operate without being in the electrical business.

**NOTES**

Following are the Coleman Light Department ‘OPERATING REVENUES’ from City of Coleman 2014-2015 budget.

*Highlighted are non-operating revenues.*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **ELECTRICITY – 29 Final Budget** | | | | |
| 3100-29 | ELECTRICITY BILLED[[11]](#footnote-11) |  |  | 2,829,724 |
| 3110-29 | POWER COST RECOVERY FEE |  |  | 3,363,054 |
| 3115-29 | DEMAND/INDUSTRIAL RATE |  |  | 150,000 |
| 3120-29 | LAKE COLEMAN ELEC HOOK-UP |  |  | 2,500 |
| 3130-29 | TSF FEES-SERVICE CHARGES |  |  | 27,000 |
| 3135-29 | LEGAL FEES – EDC |  |  | 0 |
| 3137-29 | ENGINEERING FEES – EDC |  |  | 0 |
| 3140-29 | PENALTIES ON UTILITIES |  |  | 85,000 |
| 3160-29 | BAD DEBT COLLECTIONS |  |  | 2,000 |
| 3161-29  3170-29 | BAD DEBT COLLECTION FEE 30%  SALE OF ASSETS |  |  | 4,000  0 |
| 3220-29 | EQUIPMENT HIRE-LIGHTS |  |  | 10,000 |
| 3396-29 | LEASE PURCHASE/PHONE/MOW |  |  | 0 |
| 3397-29 | LEASE PURCHASE/ OCR |  |  | 0 |
| 3410-29 | MISC. INCOME |  |  | 1,500 |
| 3510-29 | INTEREST INCOME |  |  | 1,750 |
| 3610-29 | A/R ADMIN. FEE – LWS |  |  | 300 |
| 3645-29 | GOVERNMENT CAPITAL CORP |  |  | 0 |
| 4610-29 | UTILITY RESERVE INJECTION |  |  | 0 |
| 4615-29 | TRANSFER FROM GARBAGE |  |  | 140,887 |
|  | **OBJECT TOTAL** |  |  | **6,617,715** |

*Note that the last item (highlighted) is clearly not from Electricity operations. Deduct this figure from the total, and the ‘real’ total revenue strictly from operations is* ***$6,476,828****.*

*There are two areas of direct costs relating to the Electrical revenues, Light Production (actually wholesale purchase) and Light Distribution[[12]](#footnote-12). Again, these department budgets contain line items that are not directly related to production or distribution.* ***(****Note: the figures do not include funds that might be required to pay congestion fees that could add to costs in 2015 and beyond.[[13]](#footnote-13))*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **LIGHT PRODUCTION -30** | | | | |
| 5145-30 | LEGAL SERVICES |  |  | 23,000 |
| 5150-30 | ENGINEERING |  |  | 10,000 |
| 5160-30 | REGULAR MAINTENANCE |  |  | 25,000 |
| 5180-30 | ADVERTISING |  |  | 100 |
| 5210-30 | HAZARDOUS WASTE |  |  | 50 |
| 6010-30 | POWER PURCHASED-AEP |  |  | 1,997,130 |
| 6020-30 | FUEL ADJ. COST – AEP |  |  | 1,997,130 |
| 6060-30 | UTILITIES |  |  | 0 |
| 6310-30 | INTERNAL FRANCHISE FEE (4%) |  |  | 113,189 |
| 6321-30 | GENERAL SERVICES FEE (4%) |  |  | 113,189 |
| 7520-30 | TRANSFER TO GENERAL |  |  | 1,118,201[[14]](#footnote-14) |
| 7531-30 | TRANSFER TO AIRPORT FUND |  |  | 25,000 |
| 7535-30 | WIRE CHARGE/FUEL DISTRIBUTION [*AEP*] |  |  | 68,508 |
| 8611-30 | HEALTH REIMB. EXPENSE |  |  | 1000 |
| 8612-30 | PRIOR ISSUE DEBT SERVICE FUND |  |  | 0 |
|  | **OBJECT TOTAL** |  |  | **$5,492,217** |

*Highlighted items do not relate directly to production costs. Deducting these items, shows that actual Production costs are $****4,120,918****.*

|  |  |  |  |
| --- | --- | --- | --- |
| LIGHT DISTRIBUTION - 31 |  |  |  |
| 5100-31 | SALARIES/ LT DIST. |  | 206,062 |
| 5102-31 | OVERTIME WAGES |  | 4,500 |
| 5103-31 | STAND-BY PAY |  | 15,000 |
| 5104-31 | LONGEVITY PAY |  | 2,948 |
| 5110-31 | WORKERS COMP INS./LT DIST. |  | 2,970 |
| 5115-31 | EMPLOYEE HEALTH INS. |  | 36,832 |
| 5120-31 | UNEMPLOYMENT INS./LT DIST. |  | 1,080 |
| 5125-31 | FICA & MEDICARE/ LT. DIST. |  | 17,481 |
| 5130-31 | RETIREMENT BENEFITS/LT DIST. |  | 42,434 |
| 5160-31 | REGULAR MAINTENANCE |  | 45,000 |
| 5170-31 | EQUIPMENT MAINTENANCE |  | 32,000 |
| 5190-31 | ANNUAL AUDIT |  | 26,000 |
| 5220-31 | INSURANCE |  | 6,736 |
| 5250-31 | UTILITIES |  | 1,320 |
| 5260-31 | PROTECTIVE/SAFETY GEAR/TESTING |  | 6,800 |
| 5270-31 | SCHOOLS/WORKSHOPS |  | 7,500 |
| 5290-31 | UNIFORM EXPENSE |  | 2,000 |
| 5315-31 | FUEL EXPENSE |  | 10,000 |
| 6200-31 | BAD DEBT WRITE OFF |  | 10,000 |
| 6400-31 | CAPITAL OUTLAY |  | 15,000 |
| 6415-31 | CAPITAL IMPROVEMENTS |  | 0 |
| 6500-31 | DEPRECIATION |  | 0 |
| 6515-31 | DEBT SERVICE/ PHONE |  | 250 |
| 6516-31 | DEBT SERVICE/ OCR |  | 12,420 |
| 6700-31 | TELEPHONE EXPENSE |  | 1,500 |
| 6750-31 | ATMOS/GAS |  | 735 |
| 7173-31 | INTERNET / LT. DIST. |  | 531 |
|  | OBJECT TOTALS |  | **507,099** |

*Not included in this tabulation are interest costs on the Series 2010 and 2013 refunding bonds for the electrical system. 2014-2015 interest costs totaled $*27,439. *Adding this gives a true Distribution Cost of $****534,538****. There has been some discussion about including DEPRECIATION in the Utility Budget. The TEXAS PUBLIC**UTILITY REGULATORY ACT (9/1/2013), Sec. 32.102, requires that depreciation be carried.[[15]](#footnote-15) However, not all Texas cities with Municipally Owned Utilities include depreciation in their budgets.*

**Amended budget figures[[16]](#footnote-16) showing real net income to city from the electrical system!**

*Total Budgeted Revenues directly from operations (amended) $6,476,828*

*Budgeted Production Costs (amended) [[17]](#footnote-17) - 4,120,918*

*Budgeted Distribution Costs (amended) -534,538*

*Gross Annual Revenue Reduction if the System is sold $1,821,372*

*Lost Revenues partially offset by:*

*Franchise Taxes to City from private owner[[18]](#footnote-18) -194,038*

*Annual Ad Valorem Taxes to City from private ownership[[19]](#footnote-19) -12,234*

*City Savings from not having 2010 Bond principal payments (avg.)[[20]](#footnote-20) -233,333*

*City Savings from not having 2013 Bond principal payments (avg.)[[21]](#footnote-21) -180,000*

**Net Annual Revenue Reduction if Electrical System is sold** *$1,201,767*

City of Coleman current Cash Balance is over $4,200,000.

**OFFSETS**

Buy back bonds (+$2,852,000 to city), existing I&S tax eliminated.

Citizens vote an M&O tax increase of same amount. -318,500

Eliminate 4A EDC and redirect existing tax (+$400,000 cash balance

To the city). 4A dissolution vote gives same tax to city. **-**217,366

Eliminate current TWDB expenditure (-$3,835,000 from city) -170,000

Eliminate short term debt amortization (-$77,440 from city) -38,524

Balance of Shortfall $457,377

City of Coleman Cash Balance after adjustments, $3,500,000.

City government could use the resulting $3,500,000 city cash balance to cover shortfall balance during the adjustment period while the purchaser of the system worked its way out of the existing contract. Planned and future growth, with lower electrical rates, should grow both sales and property tax income to city. If growth fails to cover the shortfall, raising other rates/taxes to cover the shortfall would still have Coleman citizens ahead by about $2 million per year.

Plus,

Coleman citizens should have lower property taxes paid to the hospital and school districts and to the County, both because those entities would tax the privately-owned utility, and because each of these entities—and the city—would enjoy significantly lower electricity costs.

1. Coleman City Manager, Paul Catoe (325)625-5114 [↑](#footnote-ref-1)
2. Schneider Engineering, Ltd (830)249-3887 [↑](#footnote-ref-2)
3. Lloyd Gosselink Rochelle & Townsend, P.C. [(512) 322-5875](tel://(512)%20322-5875/) [↑](#footnote-ref-3)
4. Zollie C. Steakley, PLLC 325-455-0628 [↑](#footnote-ref-4)
5. Craig Allen (325) 625-5419 [↑](#footnote-ref-5)
6. ‘Exploring Distributed Energy Alternatives to Electrical Distribution Grid Expansion’ *December 2005. See http://info.ornl.gov/sites/publications/files/Pub6763.pdf* [↑](#footnote-ref-6)
7. “GRI and NETL performed [tests] in vertical wells in the 1990s” http://www.gastechnology.org/Expertise/Pages/Hydraulic-Fracturing-Test-Site.aspx [↑](#footnote-ref-7)
8. U.S. Natural Gas Electric Power Price (Dollars per Thousand Cubic Feet) https://www.eia.gov/dnav/ng/hist/n3045us3m.htm [↑](#footnote-ref-8)
9. <http://www.cityofcolemantx.us/budget/pdf/City%20of%20Coleman%20Budget%202014-2015.pdf>, see attached notes [↑](#footnote-ref-9)
10. Eric Joffrion (325) 669-5946 [↑](#footnote-ref-10)
11. The city’s base electrical rate is 7 cents/Kwh. Electricity Billed (line 1 above) $2,829,724/.07 = 40,424,628 Kwh in sales. [↑](#footnote-ref-11)
12. Other operational costs, such as Utility Office, Utility Shop, and Management, would be required for water, sewer & streets. [↑](#footnote-ref-12)
13. Congestion occurs when the available transmission capacity on a particular pathway reaches its limits for safe operation and forces the Electric Reliability Council of Texas (ERCOT)(see ercot.com) to dispatch power plants out of economic order to resolve a transmission constraint. Such action ultimately results in higher power prices. Higher congestion costs in the West Zone of Texas have been driven primarily by the explosion of activity in the Permian Basin. [↑](#footnote-ref-13)
14. Change in City Manager’s budget book from original budget. [↑](#footnote-ref-14)
15. Sec. 32.102. DEPRECIATION ACCOUNT. The commission shall require each electric or municipally owned utility to carry a proper

    and adequate depreciation account in accordance with: (1) the rates and methods prescribed by the commission

    under Section 36.056; and (2) any other rule the commission adopts. Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. [↑](#footnote-ref-15)
16. See City Budget figures in NOTES. [↑](#footnote-ref-16)
17. This figure does not include the Electrical department’s share of the Utility Office budget, Utility Shop budget or other support expenses. [↑](#footnote-ref-17)
18. Assumes total sales of 40,424,628 Kwh X $0.12 per Kwh X the Franchise Tax Rate of 4% = $194,038 [↑](#footnote-ref-18)
19. Assumes a value of $5,000,000 X the M&O rate of .24468 = $12,234 [↑](#footnote-ref-19)
20. Assumes a sale in late 2016, payments are through 2018. Only applies if City uses sale funds for sinking fund. [↑](#footnote-ref-20)
21. Ibid. Payments through 2022. Only applies if bonds can be re-purchased. [↑](#footnote-ref-21)