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FILED

AUG - 6 2014

BLACKFEET TRIBAL COURT
By [Signature]

Attorney for Plaintiffs

**IN THE BLACKFEET TRIBAL COURT IN AND FOR THE BLACKFEET
INDIAN RESERVATION**

Floyd "Bob" Gervais, James Kittson,)
Scott Smith, Emerald "Beep" Grant,)
Suzie Murray, Tashina McNabb,)
William Guardipee, Fred Guardipee,)
Heather Juneau, Joseph Arrowtop,)
William Wetzel, Troy Wilson,)
Melissa Gervais, Wilfred DeRoche,)
Georgia Matt, Rodney "Minnow" Gervais,)
Ralph Johnson, Mike Kittson, Kathy Broere,)
Lenore Matt, Evie Birdrattler,)
Rodney Gervais, Duane Ladd, Marcella)
Birdrattler, Tom Gervais, Jim Gervais,)
Marlene Matt, Wilfred DeRoche,)
Titus Upham, John DeRoche, Carl Evans,)
Jeri J. Elliott, Dennis Juneau,)
Teri Ann DeRoche, Paul McEvers,)
Patricia Calflooking, Tony Carlson,)
Sarah Calf Boss Ribs, Kathy Gervais,)
Marcella Green, Ellen Burdeau,)
Randy Augare, Robert Wagner,)
Kenny Walter, Honey Davis, Anna Horn,)
Cherlyl Gervais, Anita Potts,)
Therese Salois, Faith Gervais,)

Plaintiffs,

v.

Glacier Electric Cooperative, Inc.,)
Brian Elliott, Willard Hjartarson,)
Jim Newman, Darrol Berkram,)

Cause No. 2014 CA 107

**VERIFIED COMPLAINT
and JURY DEMAND**

RECEIVED

AUG 18 2014

Burk, Lee & Bieler, PLLC

AUG 14 2014

EXHIBIT

1

Zita Bremner, Miles Lewis,
Dave Losing, and James Taylor,
in their official capacities
as directors of Glacier Electric
Cooperative, Inc., and Dan Brewer,
in his official capacity as Interim
General Manager of Glacier Electric
Cooperative, Inc.,
Defendants.

Plaintiffs, in their individual capacities and derivatively as members of
Glacier Electric Cooperative, Inc., allege and state as follows:

I. NATURE OF THE ACTION

1. A public utility may not use its privileged position, in conjunction with
the demand, which it has created, as a weapon to control rates by threatening to
discontinue that part of its service, if it does not receive the rate demanded.

2. Plaintiffs bring this civil suit individually and as a derivative
membership action against Glacier Electric Cooperative, Inc. (GEC), its Board
members, and its General Manager.

3. Plaintiffs allege serious and pervasive breaches of fiduciary duty on the
part of the GEC Board of Directors and officers. These breaches include improper
arrangements for payment of excessive compensation to Board members,
improper sale of assets, improper preferential treatment, and improper
restrictions on elections, violations of Blackfeet Tribal law, Montana law and
violations of the GEC bylaws.

4. GEC is a non-profit electric membership corporation established pursuant to Title 35 of the M.C.A. to deliver electrical services to the rural communities in Glacier County. That service area includes Native-American members who reside on the Blackfeet Indian Reservation.

II. PARTIES

5. This action is initiated by Cooperative Members of Glacier Electric Cooperative, Inc. All Plaintiffs reside within the boundaries of the GEC, and most if not all, reside on trust land. All Plaintiffs are qualified voters of Glacier Electric Cooperative pursuant to the GEC bylaws. All Plaintiffs are enrolled members of the Blackfeet Tribe.

6. Defendant Corporation GEC is a non-profit rural electric membership corporation organized under Section 35-18-101, MCA, Rural Electric and Telephone Cooperative Act. The statutory purpose of such a corporation is "for the purpose of supplying electrical energy and promoting and extending the use of electrical energy in rural areas, as provided in this chapter." 35-18-105, MCA.

7. The corporate office of GEC is located in Cut Bank, Glacier County, Montana. GEC also has an office located on the Blackfeet Indian Reservation in the town of Browning.

8. Upon information and belief the Plaintiffs submit that most of the cooperative members reside within the exterior boundaries of the Blackfeet Indian Reservation.

9. The affairs of GEC are governed in accordance with its Bylaws. A copy of the most recent printed edition of the Bylaws, As Adopted and Amended 4/12/2008, is attached to this Complaint as Exhibit A.e

10. Defendant Brian Elliott is a resident of Glacier County and a member and Secretary/Treasurer of the GEC Board of Directors and resides on the Blackfeet Indian Reservation.

11. Defendant Willard Hjartarson is a resident of Glacier County and a member of the GEC Board of Directors.

12. Defendant Jim Newman is a resident of Glacier County and a member of the GEC Board of Directors.

13. Defendant Darrol Berkram is a resident of Glacier County and a member of the GEC Board of Directors.

14. Defendant Zita Bremner is a resident of Glacier County and a member and Vice-President of the GEC Board of Directors, and resides on the Blackfeet Indian Reservation.

15. Defendant Miles Lewis is a resident of Glacier County and a member of the GEC Board of Directors and resides on the Blackfeet Indian Reservation.

16. Defendant Dave Losing is a resident of Glacier County and a member of the GEC Board of Directors.

17. Defendant James Taylor is a resident of Glacier County and a member of the GEC Board of Directors.

18. Defendant Dan Brewer, is a resident of Glacier County and the Interim General Manager of GEC.

III. JURISDICTION

19. Plaintiffs reside on the Blackfeet Indian Reservation, Glacier County, State of Montana. All are members of GEC. Under information and belief, fifty percent of the cooperative membership is Indian and thus, GEC is an Indian owned entity.

20. GEC has entered into contracts with the Plaintiffs to provide electricity to each one of the Plaintiffs most of whom, if not all, reside on trust land.

21. For purposes of providing electricity to the Indian members of the cooperative, GEC holds a membership interest in trust land through its right of ways on trust land.

22. Defendant conducts most of its business on the Blackfeet Indian Reservation, in Glacier County, State of Montana as a majority of GEC's customers reside on the Blackfeet Indian Reservation.

23. This Court has jurisdiction over this civil action based on Chapter I and Chapter II of the Blackfeet Law and Order Code.

24. This Court has personal and subject matter jurisdiction over this action based on the Blackfeet Tribe's inherent authority to regulate and adjudicate matters involving Indians and in this case, the Plaintiffs submit both parties are Indian.

25. The Blackfeet Tribe also has the inherent authority to regulate and

adjudicate the conduct or activities of all non-members who are conducting business on Indian owned land.

26. The Blackfeet Tribe also has authority to regulate and adjudicate the conduct of all non-members who enter into consensual relationships with the Tribe or its members. *Montana v. U.S.*, 450 U.S. 544 (1981).

27. The Blackfeet Tribal Court also has jurisdiction to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or health or welfare of the tribe. *Montana v. U.S.*, 450 U.S. 544 (1981).

IV. FACTS COMMON TO ALL ALLEGATIONS

28. Out of 3,192 counties listed in the Census Bureau report, Montana had three among the top 100 worst poverty rates. Glacier County ranked 35th with one of three residents living in poverty.

29. The total population of Glacier County is 13,331 persons of whom 8,429 are Native American or 64%. The total membership of Glacier Electric Cooperative, Inc. is 5,200, of whom a majority are Native Americans.

30. The Board of Glacier Electric Cooperative, Inc. consists of 9 members elected from the membership at large and one is Native American. Terms of office are staggered and are for three years. Elections are non-partisan. The next election for the Board of Glacier Electric Cooperative, Inc. is scheduled for April 2015.

31. The Board typically has held its annual meetings in Cut Bank, Montana, at the Cut Bank High School and has held one annual meeting on Blackfeet Indian Reservation, which occurred in April of 2014. At this meeting a cooperative member may vote in person. In the past, when a Native American is on the ballot at the annual meeting in Cut Bank, 300 non-Indian cooperative members have attended to vote in person.

32. To bring members to the meeting, the cooperative advertises that membership will be given gifts to those who attend. At the last annual meeting held in Browning, the annual meeting advertisement did not include this message to the voters.

33. Up until April of 2014, the routine way to be a candidate for the GEC Board was to be nominated by the nominating committee. The Board of directors selected the nominating committee who selected candidates. The nominating committee was made up of mostly non-Indian members of the cooperative, thus it was routine for the incumbent non-member to be nominated and to even run unopposed. A second rarely known way for a cooperative member to get on the GEC ballot was to file a petition with the board. This petition had to be signed by fifteen members of the cooperative. As of April of 2014, the cooperative members voted to eliminate the nominating committee and that all future candidates who run for the board will have to file a petition. In the past, because the Indian cooperative members were not nominated by the nominating committee, only one Indian at a time sat on the board.

34. For each election, members can vote in person or by mail-in-ballot. GEC has told those in attendance at the annual meeting that even if they voted by mail, they can vote again. Defendants' use of the mail in ballots and the use of only one voting place in the town of Cut Bank, 35 miles from the central town on the Blackfeet Indian Reservation has a significant disparate impact on the voting power of cooperative members, and is an apparent effort to dilute the voting strength of the cooperative members who live on the Reservation.

35. On or about March 28, 2014, a large group of cooperative members, who were mainly Indian, almost twenty percent of the cooperative membership, signed a petition for removal. This petition was served on the board. The bylaws called for an in person vote at the next annual meeting. The next annual meeting was to be held in Browning on April 12, 2014. In total disregard for the GEC bylaws, the GEC board set the vote to be done by mail-in-ballots and opened the doors for an in person vote only in Cut Bank, MT on April 26, 2014, a Saturday, for one hour, from 9:00 am to 10:00 a.m. If the GEC board is allowed to continue with the mail-in-ballot, the Indian voters will not vote as they do not trust a mail-in-ballot as they believe it is more secure to vote in person rather than to place the vote in an envelope and have it opened by another with responsibility to assure that her vote counts.

36. To require the in person vote in only one place in the entire cooperative, 35 miles one way, 70 miles round trip, for most Indians in the cooperative, results in the ability of cooperative members to vote and to effectively participate in the political process is to be hindered.

37. Each year the GEC board invites GEC membership to the Board meeting by giving out door prizes. In 2014 the meeting was held in Browning for the first time. There were *no door prizes advertised* for the meeting. This shows that the intent of the meeting was not really an attempt to get members to attend this meeting.

38. Defendants, the GEC Board, has a fiduciary obligation to Plaintiffs, the *other members* of GEC, to discharge their duties in good faith, the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner they would reasonably believe to be in the best interests of GEC.

39. Concurrent with these financial breaches of their fiduciary duty of enriching themselves at the expense of GEC, Defendant directors and officers have also breached their fiduciary duties by using their positions of trust and authority to maintain a voting system to entrench themselves in power. In so doing, Defendants deny Plaintiffs and other members of GEC their rights to full and meaningful participation in the elections and governance of GEC.

40. In the face of requests for reform, Defendant GEC has insisted on retaining the at large voting system for the GEC Board of Directors. The GEC Board has nine trustee members, who are required to be residents of geographically defined districts. The election rules, however, require that all members cast a vote for a candidate for each Board seat up for election in order to cast a valid ballot. The present voting structure of Defendant GEC systematically

submerges the voting strength of any minority voters and dilutes the power of their votes.

41. Faced with a petition for removal by almost 20 percent of the members of the cooperative, current GEC board members used GEC member money to start a letter campaign to discourage attendance and a vote on their removal. In fact, the General Manager, Jason Bronec, reported to the Pioneer Press that GEC spent \$25,000.00 on this campaign to retain power. The Bylaws do not allow for this use of funds in this manner.

42. In this letter sent to the all the cooperative members, the GEC manager and board discusses a lawsuit filed in Montana against an enrolled member of the Blackfeet Tribe. This lawsuit has cost the cooperative members millions and resulted in higher rates to the citizens, whom can least afford an increase.

43. It is Plaintiffs' information and belief that if GEC wins this lawsuit it only stands to gain a minimal amount of money. If these facts are true, it is an abuse of the Board members' discretion and a breach of its fiduciary duty to its members as the owner of these funds.

44. A list of all the membership voters was available to the board but not to the Plaintiffs. In fact, when the Plaintiffs requested this list the GEC Board claimed the bylaws gave the board discretion and declined to provide it based on the board's protection of its members right to privacy. Although, GEC's management provides this membership list to the incumbents for their use, it has consistently refused access to those lists to other members. This having been

said, Plaintiffs can prove that this list has been provided to those who are not members of the cooperative.

45. Another issue is the member sign-up / connect fees - \$800.00 up until April 2013, now its no fee if a member has excellent credit. Otherwise it is \$600.00 for electricity and \$400.00 for gas. The reconnect fee was \$800.00 as of April 2013, and it is now \$250.00.

46. Upon information and belief, the excellent credit exception for paying a deposit is seldom an option provided to Indian cooperative members.

47. One other method of obtaining electricity is to obtain a prepay meter. The prepay meters require a member to pay for their electricity up front and pay a deposit of \$50.00.

48. The current policy essentially places most Indian cooperative members, who are below the poverty line, in a situation where they buy electricity up front. The Indian member who runs out of electricity in the middle of winter is without electricity when the temperature is well below zero for days. This has resulted in very serious dangerous conditions for the Indian members and makes the home essentially uninhabitable especially when the only heating source in the home is provided by electricity.

49. The prepay meters are in violation of Blackfeet law as the law on the Blackfeet Reservation prevents GEC from turning off the electricity from November to April.

50. The GEC board has sold the property of the membership without membership approval. Recently, GEC reported to the Pioneer Press that it sold

Global Net. The Bylaws do not allow a sale of GEC property unless this sale is approved by a vote of the membership. This did not occur.

51. The GEC board gives scholarships to students each year. Typically the Board gives 8 scholarships, \$1,000.00 and one may be given to a Native American, and many of those given scholarships are related to Board members and do not appear to be based on need.

52. GEC Board has fired Native American employees for violations of the rules and taken away their benefits but have treated non-Indian employees differently for the same violations.

53. Upon information and belief, the plaintiffs understand GEC Board pays Native American employees less than it pays non-Indian employees and provides little to no benefits compared to their non-Indian counterparts. This disparate treatment puts the membership's capital credits at risk for a discrimination judgment.

54. GEC Board has doubled the wages of the General Manager with no grounds for such action.

55. GEC board members receive significant income from GEC that creates a conflict of interest and clouds their ability to represent the best interest of all the cooperative members.

COUNT I. DECLARATORY AND INJUNCTIVE RELIEF

1. Plaintiffs re-allage each of the prior allegations herein.
2. This is a justicable controversy within the jurisdiction of this court, such that the delaration of obligations and responsibility is appropriate.

3. An order is sought declaring GEC has a duty to provide all challengers and potential candidates to the board with a membership list with addresses that are available to the current GEC board.

4. An order is sought declaring GEC must hold in person voting for eight hours in Browning, Montana, on the day of election.

5. An order is sought declaring GEC must not allow individuals to vote by mail in ballot and in person.

6. An order is sought declaring that GEC must hold the April 2014, election over and allow for in person voting in Browning, MT.

7. An order is sought finding that the Pre-pay meters are wrongful, oppressive and contrary to Blackfeet law.

8. An order is sought to enjoining its practice of selling property without gaining membership approval.

9. An order is sought to prevent board members from receiving compensation from GEC other than its board fee.

10. An order is sought requiring the GEC board to amend its bylaws to equally divide the scholarships it gives out between the cooperative members schools of Browning, Heart Butte, and Cut Bank.

11. An order is sought enjoining the GEC Board from harassing or intimidating members who seek to change the board bylaws.

12. An order is sought requiring the GEC board members to have reasonable deposits for electricity.

13. An order is sought changing the GEC bylaws to allow for three

districts with three members elected from each district and that these districts be drawn to give a fair representation on the board, and that the person who stands for election from this district be elected only by the membership of his/her district.

14. An order is sought, requiring all of the GEC board members who approved the letter to go out to the membership in opposition to the petition for removal, to reimburse GEC the \$25,000 and any other monies illegally spent to defend against removal.

COUNT II. BREACH OF FIDUCIARY DUTIES BY DEFENDANTS

15. Defendants' officers and directors of GEC have fiduciary obligations to Plaintiffs, the other members of GEC, to discharge their duties in good faith, the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner they would reasonably believe to be in the best interests of GEC.

16. Defendants have breached their fiduciary duties to GEC and failed to discharge their duties in good faith and in a manner reasonably believed to be in the best interests of the corporation. Defendants have abused their positions of trust and authority as directors and officers to enrich themselves at the expense of GEC and its membership in the following respects:

(A) Upon information and belief, Defendant board members have approved certain Defendant board members receiving significant monies from GEC, thereby benefitting these Defendant board members in violation of the corporate purpose of the organization to provide electricity to its membership.

(B) Defendant board members have authorized distributions of the property and funds of GEC to themselves, including excessively generous benefits and expense reimbursements, in excess of any reasonable amount for services rendered or other value received.

(C) Upon information and belief, Defendant officers and board members of GEC give favorable treatment to Defendant board members not available to plaintiffs or other members of GEC.

(D) Upon information and belief, Defendant board members have authorized excessive compensation for themselves.

(E) Upon information and belief, Defendant board members have authorized excessive compensation for themselves and their families in the form of board compensation, travel and scholarships.

(F) The Board members have increased the salary and bonuses of the prior General Manager to make him the third highest paid General Manager for a public utility in the State of Montana in an area that services a county that is ranked in the top three poorest counties in the state and the 84th poorest county in the United States.

17. Concurrent with these financial breaches of their fiduciary duty of enriching themselves at the expense of GEC, Defendant directors and officers have also breached their fiduciary duties by using their positions of trust and authority to maintain a voting system to entrench themselves in power. In so doing, Defendants deny Plaintiffs and other members of GEC their rights to full and

meaningful participation in the elections and governance of GEC in the following respects:

(A) In the face of repeated requests for reform, Defendant directors have insisted on retaining a multimember voting system for the GEC Board of Directors. The GEC Board has nine trustees members, nine at large who are required to be residents of geographically defined districts. The election rules, however, require that all members cast a vote for a candidate for each Board seat up for election in order to cast a valid ballot. This type of voting system is a "winner take all system" in which a bare majority of the voters are able to determine the election of 100% of the seats up for election.

Thus, the present voting structure of Defendant GEC systematically submerges the voting strength of any minority voters and dilutes the power of their votes. That effect results from the multimember election system in combination with the requirement that all members must vote for candidates for all seats up for election. This system requires a candidate not only to be able to mobilize the votes for the seat he or she is seeking, but also to mobilize votes for all the other seats up for election. The incumbent Board members can and do unite to accomplish this, and that gives the incumbent Defendants enormous power to assure their re-election, without serving any valid purpose.

(B) Defendants have thus refused to reform a voting system which has produced a lack of diversity in the Board of Defendant GEC. By this refusal, Defendants are defying their own statement of non-discrimination and the " that both the election of board members and the hiring employees of electric

membership corporations should reflect the diversity of the communities those corporations serve.

Eight of the nine trustees are non-Indian and one is Native-American, although upon information and belief, over 60% of GEC'S members are Native American and approximately 40% of Defendant GEC's members are Caucasian. This lack of diversity has existed since GEC's inception. No Native American has served as a Chairman of Defendant GEC. The lack of diversity in the Board of Directors of Defendant GEC board is the inevitable and systematic result of the voting structure that enables defendant board members to work together as a bloc to entrench themselves in their positions.

(C) Defendants require voters to attend an election meeting to be able to vote and schedule the election meeting at a time and place that makes it difficult for many members to attend and vote.

(D) Upon information and belief, the bylaws are designed to make it difficult for Native Americans to become board members.

COUNT III. BREACH OF CONTRACT

18. Plaintiffs reallege each of the foregoing allegations.

19. By selling property without membership approval in violation of the GEC bylaws.

20. By using GEC membership money to further GEC board members'

position in the election process.

21. GEC has violated the GEC bylaws in the various ways set forth in the preceding paragraphs.

22. As a consequence the Plaintiffs and certain members have been injured.

COUNT IV. DAMAGE TO GEC AND PLAINTIFFS INDIVIDUALLY

23. As a result of these breaches of fiduciary duties by Defendant directors and the general manager for the purposes of entrenching and enriching themselves, Defendant GEC and its membership have been injured as follows:

(A) The members are required to pay excessive rates for their electricity from Defendant GEC.

(B) Defendant GEC is deprived of the funds excessively and improperly spent on behalf of Defendant directors and officers.

(C) The members of Defendant GEC are deprived of their rights to fair elections and to full and fair participation in its elections and governance.

(D) Native Americans receive disparate treatment as they pay different rates than their non-Indian counterparts.

(E) Native Americans electricity is effectively turned off during the winter months causing excessive damages to their home, when the Blackfeet Reservation laws prohibit such activity.

24. As a result of these breaches of fiduciary duties by Defendant directors and officers for the purposes of entrenching and enriching themselves,

Plaintiffs have been personally and individually injured in their right to full and fair participation in the elections and governance of GEC.

COUNT V. DEMAND AND REFUSAL

25. The Plaintiffs have requested in written correspondence with GEC from March 2013 to April 2014, that the Defendants address most of the issues raised in this complaint. The Plaintiffs' demands have been essentially ignored by the Defendants, unless it was to oppose the demands.

PRAYER FOR RELIEF


WHEREFORE, Plaintiffs pray as follows:

1. That the court order such reforms of the voting structure as it deems just, proper and necessary to protect the rights of all members of Defendant GEC to full, fair and equal participation in its governance as set forth in the Plaintiffs' claims for injunctive and declaratory relief.
2. That the Defendant directors be removed from their positions on the board of Defendant GEC and be barred from serving on said board for such period as the Court deems just and proper.
3. Awarding Plaintiffs an amount to be determined that represents their injuries on account of breaches of fiduciary duty, breach of contract, and improper use of their property.
4. Awarding interest and punitive damages.
5. The Court award Plaintiffs the reasonable expenses of maintaining this action, including attorneys' fees.

6. All of the Relief requested in this complaint.
7. That the Court grant Plaintiffs any such other relief that it finds and deems to be just and proper.

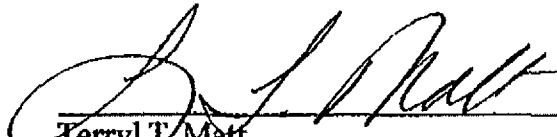
DATED this 20th day of July 2014.

MATT LAW OFFICES, PLLC

By: 
Terryl T. Matt

JURY DEMAND

COME NOW the Plaintiffs and respectfully request that this matter be tried before a jury.


Terryl T. Matt
Attorney for the Plaintiffs

VERIFICATION

STATE OF MONTANA)

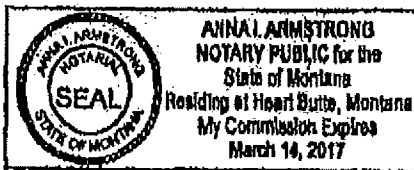
: ss

County of Glacier)

Floyd "Bob" Gervais, being first duly sworn, deposes and says that the above statements contained in this verified complaint are true to the best of his knowledge and belief.

Floyd "Bob" Gervais
Floyd "Bob" Gervais

Subscribed and sworn to before me this 29th day of July 2014.



[Signature]
Notary Public for the State of Montana
Residing at Heart Butte Montana
My Commission expires March 14, 2017

STATE OF MONTANA)

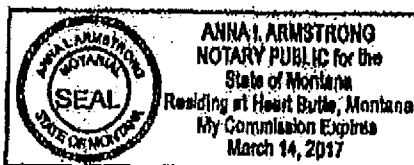
: ss

County of Glacier)

James Kittswon, being first duly sworn, deposes and says that the above statements contained in this verified complaint are true to the best of his knowledge and belief.

James Kittswon
James Kittswon

Subscribed and sworn to before me this 29th day of July 2014.



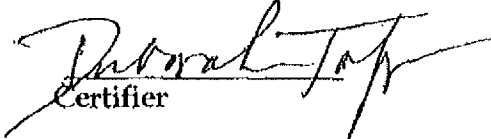
[Signature]
Notary Public for the State of Montana
Residing at Heart Butte Montana
My Commission expires March 14, 2017

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of July 2014, a true and correct copy
of the Verified Complaint and Summons was served by mail upon following:

ORIGINAL:

Marie Talks About
Clerk of Blackfeet Tribal Court
P.O. Box 1170
Browning, MT 59417


Certifier