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November 12, 2021

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State Corporation Commission
1300 E. Main Street
Richmond, VA 23219

Re: *Application of Shenandoah Valley Electric Cooperative,
For a general increase in electric rates*
Case No. PUR-2021-00054

Dear Mr. Logan:

Please find the attached Post-Hearing Brief of Solar United Neighbors of Virginia for filing in the above-captioned matter.

Should you have any questions about this filing, please do not hesitate to contact me.

Sincerely,

/s/ William T. Reisinger

William T. Reisinger

cc: Certificate of Service

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF

SHENANDOAH VALLEY ELECTRIC
COOPERATIVE

CASE NO. PUR-2021-00054

For a general increase in rates

**POST-HEARING BRIEF OF
SOLAR UNITED NEIGHBORS OF VIRGINIA**

Pursuant to the Hearing Examiner's October 15, 2021, Ruling, respondent Solar United Neighbors of Virginia ("SUN-VA"), by counsel, files the following post-hearing brief regarding the application of Shenandoah Valley Electric Cooperative ("SVEC" or "Cooperative") for a general increase in rates. SUN-VA is a 501(c)(3) non-profit organization representing the interests of solar homeowners and solar supporters throughout the Commonwealth, including in the Cooperative's service territory.

BACKGROUND AND PROCEDURAL HISTORY

On March 16, 2021, the Cooperative filed its application for an increase in rates. This is the first general rate application filed by the Cooperative since 2014.¹ The Cooperative, however, has made rate design changes by a vote of its Board of Directors and without Commission approval since that time. The Cooperative, for example, increased its fixed customer charge for residential customers, the Basic Consumer Charge ("BCC"), from \$13.76 to \$25.00 effective January of 2020.²

¹ See Ex. 1 (Application) at 4.

² See Ex. 5; Tr. 85.

The Cooperative's application requests a revenue increase of \$5.3 million. The Cooperative states that this revenue increase "will allow the Cooperative to pay expenses, service debt, fund capital additions, and meet the financial goals established by the Board of Directors."³

Instead of recovering the revenue increase through volumetric rates, the Cooperative proposes to recover the \$5.3 million revenue increase primarily through increased fixed charges. The Cooperative proposes to recover \$4.8 million – approximately 90% – of the proposed revenue increase through increases to the Cooperative's BCC. The BCC is the Cooperative's fixed customer charge. It must be paid by all customers regardless of how much – or how little – energy they use.

As part of its rate increase application, the Cooperative also proposed to implement a non-coincident demand charge for residential customers for the first time ever. The demand charge does not respond to the Cooperative's peak demand that drives additional costs for customers or the need for infrastructure investments. The Cooperative proposes to implement this demand charge based on a customer's maximum kilowatt ("kW") demand each month regardless of when it occurs.⁴

On May 5, 2021, SUN-VA filed its notice of participation as a respondent. SUN-VA's notice of participation stated that it intended to evaluate rate design changes proposed by the Cooperative, including its proposal to increase the BCC and implement a demand charge. SUN-VA noted that, "[a]s a general matter; increases in fixed charges and demand charges reduce the incentive for customers to manage electric consumption by adding solar equipment or implementing efficiency measures."⁵ SUN-VA stated that such "rate design changes, if granted,

³ Ex. 1 (Application) at 5.

⁴ See Gaines Direct at 26-27.

⁵ SUN-VA Notice of Participation at 2.

could discourage future solar development in the Cooperative's service territory and negatively affect the Cooperative's existing net metering customers."⁶

On July 28, 2021, SUN-VA filed the direct testimony and exhibits of its witness, Mr. Karl R. Rábago. Mr. Rábago's testimony objected to portions of the Cooperative's rate increase application, including the Cooperative's requests to increase its current BCC by 20% and to implement a demand charge for residential customers. Mr. Rábago testified that the Cooperative's rate design proposals are not based on sound rate-making methodologies. Mr. Rábago also testified that the Cooperative's proposals are regressive and contrary to the public policy of the Commonwealth as they would discourage customers from making investments in energy efficiency and solar resources.

On September 1, 2021, the Commission Staff filed the testimony of three witnesses. Staff took "no position" on the Cooperative's proposal to increase the BCC for residential customers. Staff also "did not oppose" the Cooperative's proposed demand charge for residential customers.⁷

On September 15, 2021, the Cooperative filed rebuttal testimony responding to the testimony filed by SUN-VA and the Commission Staff.

On September 28, 2021, the Cooperative filed a proposed Partial Stipulation signed by the Cooperative, the Commission Staff, and respondent Frederick County, purporting to resolve all issues raised by the stipulating parties. The proposed Partial Stipulation provides that Staff and Frederick County "do not take a position on the proposed [BCC]" increase. The proposed Partial Stipulation states that "[t]he Cooperative and Staff stipulate that the Cooperative's proposed

⁶ *Id.*

⁷ See Ex. 11 (Gravely) at 15, 21.

demand charge for Schedule A-13 and Schedule C-13 is reasonable and should be approved” and that “[t]he County does not take a position on the Cooperative’s proposed demand charge.”⁸

On October 6, 2021, the Commission held a hearing on the application. Before the evidentiary portion of the hearing, the Commission heard public witness testimony from nine individuals, most of whom are customers of the Cooperative. The Commission also received nearly 60 written comments from members of the solar industry, low-income consumer and energy efficiency advocates, and members of the Cooperative. Many of the public witnesses and all of the public comments expressed concerns about the Cooperative’s proposed rate design changes. The SVEC customers who testified also stated that they were not able to review or comment on the Cooperative’s rate design proposals before the Cooperative filed its rate application.

ARGUMENT

The Commission should deny the Cooperative’s proposed increase to the BCC and the Cooperative’s proposal to implement a residential demand charge. These proposed rate design changes are unreasonable and inconsistent with sound ratemaking principles.

Of the \$5.3 million revenue increase requested in this case, 90% would be allocated for recovery through the BCC.⁹ This allocation was the result of a conscious decision by the Cooperative. This proposed cost allocation is unreasonable. It would harm all of the Cooperative’s customers who either naturally use less energy or have made efforts to reduce their consumption.

The Cooperative’s proposal to implement a residential demand charge for the first time ever is premature and should be denied. The Cooperative admits that it has not even installed the metering equipment that could theoretically allow a utility to utilize time-differentiated billing.

⁸ Ex. 9 (Proposed Partial Stipulation) at 2-3.

⁹ See Ex. 10 (Rábago) at 7 (citing Cooperative Schedule 3); Tr. 72.

Finally, the evidence shows that the Cooperative did not allow public input when it was developing its controversial rate design proposals. The Cooperative purports to be a democratic, member-controlled organization.¹⁰ But SVEC member-owners testified about serious issues with governance and transparency, resulting in members and key stakeholders having little input or visibility into decisions affecting their utility. As one SVEC member testified, customers “are not allowed to attend the Board meetings or even to review detailed minutes of such significant decisions as the allocation of costs among the various classes of customers.”¹¹

For these reasons, close scrutiny of the Cooperative’s rate proposals is especially important in this case. Indeed, “[t]he State Corporation Commission is the consumer’s only hope.”¹²

A. The Cooperative’s proposal to recover virtually all of its revenue increase through the BCC is unreasonable and inconsistent with sound ratemaking principles.

The Cooperative proposes to recover almost all of the requested revenue increase through an increase to its BCC. Of the \$5.3 million revenue increase requested in this case, \$4.8 million, or 90%, would be recovered through the BCC.¹³ The Cooperative proposes to increase its BCC by 20%, from \$25.00 to \$30.00. The current proposed increase also comes on the heels of another very significant increase in January 2020, at which time the Cooperative increased its BCC from \$13.76 to \$25.00.¹⁴ If the Cooperative’s proposal is approved, the Cooperative’s BCC will have increased from \$13.76 to \$30.00 in approximately two years. This would be an extraordinarily large – 118% – increase in the fixed portion of a customer’s bill.

¹⁰ See, e.g., Ex. 16 (Gaines Rebuttal) at 14; Tr. 27, 132-134.

¹¹ Tr. 14.

¹² Tr. 14.

¹³ See Ex. 10 (Rábago) at 7 (citing Cooperative Schedule 3); Tr. 72.

¹⁴ See Tr. 74, 85.

Such a dramatic increase in the fixed portion of a customer's bill is not consistent with the fundamental ratemaking principles that this Commission uses to evaluate proposed rate design changes. The Commission and its Staff generally consider the following criteria, articulated by Professor James C. Bonbright, when evaluating rate changes:

- *Simplicity and public acceptability;*
- *Freedom from controversies as to proper interpretation;*
- *Effectiveness in yielding total revenue requirements;*
- *Rate stability and predictability, with a minimum of unexpected changes seriously adverse to ratepayers and with a sense of historical continuity;*
- *Fairness of the specific rates in the apportionment of total costs of service among the different ratepayers so as to avoid arbitrariness and capriciousness;*
- *Avoidance of "undue discrimination" in rate relationships so as to be, if possible, compensatory; and*
- *Efficient use of utility services so as to discourage wasteful use of service while promoting all justified types and amounts of use.¹⁵*

The Cooperative's proposal is inconsistent with several of Bonbright's principles. First, the Cooperative's proposal to increase its BCC does not represent "rate stability and predictability," often referred to as "gradualism" in ratemaking. The Cooperative's most recent and unexpected BCC increase is still hurting customers. As SVEC customer Robert Spiller testified, "SVEC already increased that charge more than 81 percent effective January 2020, and now are seeking to add another \$5 per month to our bills." "If this Application is approved, that part of our rate will have increased by 118 percent since December 2019 ... So we can be careful with our electricity use, but our cost will still go up."¹⁶ For lower-usage customers, including

¹⁵ See Ex. 11 (Gravely) at 9-10 (citing *Principles of Public Utility Rates*, by James C. Bonbright, Albert L. Danielsen, and David R. Kamerschen with assistance from John B. Legler, Second Edition (1988), 383-384).

¹⁶ Tr. 15.

low-income customers and those customers who have made substantial investments in solar or energy efficiency, the BCC is already the largest component of their electric bill. Another BCC increase at this time would represent “unexpected,” “seriously adverse,” and harmful changes for the Cooperative’s customers.

The principles of fairness, predictability, discouraging waste, and gradualism apply not only to total rate levels, but to rate design components such as fixed charges.¹⁷ In a 2008 case, the Commission, in rejecting the full fixed charge increase requested by an electric cooperative, referenced the principle of gradualism. The Commission also noted that while consumers have control over their volumetric consumption, they have no control over the fixed portion of their bill:

Establishing the access charges at the levels set forth herein reasonably balances the goals of cost causation and gradualism in rate increases. We note that consumers have control over the volumetric portion of their bill, but not over the fixed portion, which includes the Access Charge. The Commission finds that it is reasonable to limit the Access Charges, or the fixed portion, to the amounts approved herein, as customers may be further incited to modify their electricity use and to conserve electricity.¹⁸

The Cooperative’s proposal to increase its BCC for a second time in two years should be denied as it is not gradual, predictable, or reasonable.

B. The Cooperative’s method of over-allocating distribution system costs to the fixed customer charge is inconsistent with utility best practices.

To support its proposed BCC increase, the Cooperative utilized an unreasonable method of allocating fixed charges. The Cooperative used a “hybrid” of the minimum system and minimum intercept methods to assign more costs to the BCC.¹⁹ The minimum system method is

¹⁷ See Ex. 11 (Gravelly)

¹⁸ *Application of Northern Neck Electric Cooperative, for an increase in electric rates*, Case No. PUE-2008-00076, Final Order at 6 (January 13, 2009).

¹⁹ Tr. 104.

based on the theory that costs can be assigned based on a hypothetical minimum-sized distribution system, and that a portion of such minimum system costs should be allocated as fixed charges.²⁰ Both the minimum system and minimum intercept methods result in allocating more distribution costs to fixed customer charges.

The decision to assign more costs to the BCC was a judgment made by the Cooperative. The Cooperative's rate consultant, Mr. Gaines, agreed that "the methodologies that are used for cost allocation are subject to or are, to some degree, subjective, [and] that different analysts have different opinions about how they should be done."²¹ As Mr. Rábago testified, "the Coop's fixed customer charges are unreasonably high because the Coop puts costs into the fixed customer charge that simply do not belong there."²²

At the hearing, Mr. Rábago explained that "modern thinking has eclipsed that and previous thinking in the learned treatise of James Bonbright has refuted the idea that the minimum system methods, zero intercept and minimum intercept methods, various names, have any regulatory validity except as a tool for increasing the costs classified as customer costs, and allowing as the Cooperative has done to exercise or engage in a subjective exercise to increase its customer charge."²³

Instead of relying on a hybrid of the minimum system and minimum intercept methods, the so-called "basic customer method" provides a more rational way to assign fixed costs. Under this approach, "fixed customer charges should be built up based on costs that vary only with the number of customers."²⁴ A fixed customer charge should be "limited to the marginal cost of

²⁰ See Ex. 10 (Rábago)

²¹ Tr. 104.

²² Ex. 10 (Rábago) at 9.

²³ Tr. 136.

²⁴ Ex. 10 (Rábago) at 13.

connecting the customer to the grid and should include only costs that vary directly with the number of customers.”²⁵ The Cooperative’s rate consultant, who developed the cost of service study, appeared unfamiliar with the basic customer method. At the hearing, Mr. Gaines did not know whether or not the basic customer method was the primary means for classifying distribution costs in the United States.²⁶

In his testimony, Mr. Rábago proposes an equitable cost assignment under which costs associated with the primary system and transformers would be excluded from the customer cost category, and only 50% of meter costs would be assigned as customer costs.²⁷ This proposal results in a more reasonable fixed charge of \$15 per month. Mr. Rábago recommends that the Cooperative reduce its BCC by \$5 per year until the fixed charge reaches this more reasonable level.²⁸

Finally, SUN-VA notes that the Cooperative’s cost allocation decisions appear to have been influenced by its opinions about energy efficiency and rooftop solar. The evidence indicates that the Cooperative views distributed generation and energy efficiency as *costs* that should be contained rather than *benefits* that should be encouraged. As Mr. Rábago explained, there is evidence “in this record that this Cooperative [views] reduced use and reduced use through self-generation, through distributed generation and net metering, as a problem.”²⁹ The minutes of the Cooperative’s Board of Directors also indicate that the Cooperative’s clear objective in increasing the BCC is to “migrate” from volume-based to demand-based cost recovery in order to recover more money from customers who have invested in rooftop solar or energy

²⁵ Ex. 10 (Rábago) at 24.

²⁶ Tr. 105.

²⁷ Ex. 10 (Rábago) at 57-58.

²⁸ Ex. 10 (Rábago) at 58-59, 66.

²⁹ Tr. 141.

efficiency.³⁰ Mr. Gaines, at a January 2021 Board meeting, “spoke in favor of continuing to migrate revenue from energy volume-based to demand-based, as a way to more fairly recover costs attributable to any given member while ensuring SVEC’s overall costs are adequately recovered.”³¹

The evidence indicates that the Cooperative developed its rate design proposals with the intent to recover more costs from those customers who have installed solar or implemented energy efficiency measures.³² At the same closed-door meeting at which Mr. Gaines discussed the rate design proposals, the “Board members and Staff engaged in a lengthy discussion about the benefits and impacts of solar power generation and how to mitigate any inequitable effects on Cooperative members.”³³ Cooperative witness Aulgur testified that “members are becoming more energy efficient overall, and some are investing in alternative energy sources such as rooftop solar for some or all their electricity needs.” These developments, Mr. Aulgur testified, “necessitate[d] the Cooperative to rethink its cost recovery methodologies.”³⁴ Mr. Gaines testified that “our focus was on adjusting the rate so that it fairly and adequately recovered the [Cooperative’s] fixed customer-related cost so that when customers do add solar fine, that’s certainly welcomed by the Cooperative, but when they do add solar ... that it does not create a revenue erosion that has to be borne by other customers.”³⁵

The Cooperative’s view that customers who naturally use less energy or strive to reduce their energy usage cause costs borne by other customers is shortsighted. Customers that voluntarily invest in rooftop solar, energy efficiency, or other measures to reduce their peak

³⁰ Tr. 141.

³¹ Ex. 8 (referencing January 2021 Board minutes).

³² Tr. 114-115.

³³ Ex. 8 (referencing January 2021 Board minutes).

³⁴ Ex. 6 (Aulgur Direct) at 3.

³⁵ Tr. 115.

demand provide benefits to the utility and all other customers.³⁶ Mr. Rábago noted that the Cooperative's generation supplier, the Old Dominion Electric Cooperative ("ODEC"), charges the Cooperative based on energy and demand. "Demand charges under the formula rate include both actual costs and a margin collected by ODEC and can be adjusted as costs change."³⁷ "Members can reduce wholesale price costs and their bills in the relatively short term by reducing usage, especially during periods that ODEC experiences high demand."³⁸

The Cooperative's decision to use outdated methodologies to assign costs to the BCC was unreasonable and inconsistent with modern ratemaking practices. The Cooperative's cost assignment decisions also appear to be based on its flawed judgment that customers who have made efforts to manage their consumption should pay more.

C. The Cooperative's proposal to increase its basic customer charge is regressive and contrary to Virginia's public policy, as it discourages investments in energy efficiency and distributed solar.

The Cooperative's proposal to assign 90% of the requested revenue increase to the BCC is regressive, wasteful, and contrary to Virginia's public policy to encourage energy conservation. Higher fixed charges reduce the ability of customers to control their energy costs. As SVEC customer Robert Spiller testified, increases in fixed costs fall "most heavily on residential rate customers and, among them, most heavily on the residential customers who use the least electricity."³⁹ This is regressive, as it forces lower-usage customers to pay higher energy costs. The Cooperative did not even attempt to quantify how its proposal to increase fixed charges would affect low-income SVEC customers. Mr. Rábago explained that the Cooperative

³⁶ See Ex. 10 (Rábago) at 28.

³⁷ Ex. 10 (Rábago) at 28.

³⁸ Ex. 10 (Rábago) at 28-29.

³⁹ Tr. 18.

did not do a “bill-frequency analysis, so it does not know how consumption levels are distributed among residential members.”⁴⁰

Higher fixed charges also reduce the incentive for customers to implement new efficiency measures or install carbon-free generation systems. Higher fixed charges penalize those customers who have already made such investments. The Commission heard from SVEC customer Sally Newkirk who testified that she and her husband made “about \$80,000” in investments to reduce their energy consumption, investments such as additional insulation, a geothermal heat pump, rooftop solar, and shade trees.⁴¹

The Cooperative’s efforts to penalize customers like Ms. Newkirk is also contrary to the Commonwealth’s public policy. As Mr. Rábago testified, “Virginia’s in a new era and the Virginia energy policy is pushing in a direction that these approaches simply are not consistent with.”⁴² The Commonwealth has clear public policies to promote carbon reductions, encourage energy conservation, and support customer-owned renewable generation. In 2020, the General Assembly enacted the Virginia Clean Economy Act, which included mandatory energy efficiency targets and expanded renewable net metering options for investor-owned utilities.⁴³ In 2019, the General Assembly expanded net metering options for customers of electric cooperatives.⁴⁴ Since 2007, Virginia has had a statewide goal of reducing energy consumption by retail customers by 10 percent by 2022. The 2017 General Assembly reaffirmed this goal.⁴⁵

⁴⁰ Ex. 10 (Rábago) at 15 (internal citations omitted).

⁴¹ Tr. 9-12.

⁴² Tr. 137.

⁴³ See 2020 HB 1526, Chapter 1193, 2020 Acts of Assembly.

⁴⁴ See Va. Code § 56-594.01.

⁴⁵ Chapter 568, 2017 Acts of Assembly (providing that “it is in the public interest, and is consistent with the energy policy goals in § 67-102 of the Code of Virginia, to promote cost-effective conservation of energy through fair and effective demand side management, conservation, energy efficiency, and load management programs” and that “[t]he Commonwealth shall have a stated goal of reducing the consumption of electric energy by retail customers through the implementation of such programs by the

Moreover, the Commonwealth is now also a full member of the Regional Greenhouse Gas Initiative (“RGGI”), which requires a price on carbon-emitting generation facilities throughout the Commonwealth. The General Assembly passed legislation in 2020 directing that revenues from the RGGI program shall be used to support energy efficiency programs.⁴⁶

Mr. Rábago also referenced the Commonwealth’s new Clean Energy Policy, codified in Title 45.2 of the Code of Virginia. The Commonwealth’s Clean Energy Policy builds on the policy objectives contained in Title 67 of the Code of Virginia, including such goals as encouraging distributed renewable energy and energy efficiency and conservation.⁴⁷ The Commonwealth’s Clean Energy Policy states that “[a]ll agencies and political subdivisions of the Commonwealth, in taking discretionary action with regard to energy issues, shall recognize the elements of the Commonwealth Clean Energy Policy and, where appropriate, shall act in a manner consistent therewith.”⁴⁸ The Commission is an agency of the Commonwealth. The rate design issues addressed in this case are “energy issues.” Accordingly, the Commission, where appropriate, must act in a manner consistent with this new policy. SUN-VA asserts that the Commission should not approve rate design changes that are adverse to, or impede the adoption of, energy efficiency or distributed generation.

At the hearing, counsel for the Commission Staff noted that the Commonwealth Clean Energy Policy, as codified in Title 45.2, was made effective October 1, 2021.⁴⁹ SUN-VA believes this statute should be considered by the Commission as it prepares a final order in this case. To be clear, however, the Commonwealth’s policy of encouraging distributed renewable

year 2022 by an amount equal to ten 10 percent of the amount of electric energy consumed by retail customers in 2006.”)

⁴⁶ See Va. Code § 10.1-1330 C 2.

⁴⁷ See Va. Code § 45.2-1706.1.

⁴⁸ Va. Code § 45.2-1706.1 E.

⁴⁹ See Tr. 144.

energy and energy conservation is not new. The Commonwealth's Clean Energy Policy, codified in Title 45.2, expanded on the Commonwealth's Energy Policy and the Energy Objectives of the Commonwealth, which have been codified in Va. Code §§ 67-101 and 67-102 of the Code of Virginia since 2006.⁵⁰ The Commonwealth's Energy Policy and Energy Objectives were amended by 2020 legislation and included much of the same statutory language and many of the same objectives as the new Clean Energy Policy, such as "maximizing energy efficiency programs" and encouraging "carbon-free generation such as rooftop solar installations."⁵¹ These provisions also state that "[a]ll agencies and political subdivisions of the Commonwealth, in taking discretionary action with regard to energy issues, shall recognize the elements of the Commonwealth Energy Policy and where appropriate, shall act in a manner consistent therewith."⁵²

D. The Cooperative's proposal to implement a demand charge for residential customers is premature and should be denied.

The Commission should also reject the Cooperative's proposal to assess a demand charge for residential customers. The Cooperative proposes to implement a new charge based on a customer's maximum kW demand each month.⁵³ Customers would be charged \$0.10 per kW regardless of when the maximum demand actually occurred. This is not a rational or cost-based proposal. The demand charge does not correspond to the coincident peak demand that drives higher costs in power and energy purchases from ODEC. As Mr. Rábago testified, "charging residential members for their peak demand regardless of when it occurs means that the proposed

⁵⁰ See Chapter 939, 2006 Acts of Assembly.

⁵¹ See 2020 Senate Bill 94, Chapter 1191, 2020 Acts of Assembly (amending Va. Code §§ 67-100, 67-101, 67-102, and 67-201).

⁵² See *id.* at Va. Code § 67-102 C.

⁵³ See Ex. 7 (Gaines Direct) at 26-27.

rate is not based on cost causation.”⁵⁴ Because the Cooperative has not installed meters capable of measuring time-differentiated demand, the Cooperative “has no way of knowing whether the demand it proposes for billing actually causes costs or, instead, adds valuable cost-reducing load diversity.”⁵⁵

Mr. Rábago calls this a “Trojan horse.” The proposal, by the Cooperative’s own admission, is designed to be “so small that it does not change any behavior.”⁵⁶ The new demand charge, which cannot be avoided, is basically another fixed charge.⁵⁷ And while the Cooperative claims that its proposal is *de minimis* at this time, the Cooperative also admits that it plans to increase the demand charge in the future.⁵⁸ The Cooperative will likely do this without Commission approval.⁵⁹

Demand charges, when used with advanced metering infrastructure and time of use rate options, may allow customers to manage their energy usage. But the Cooperative does not even have the smart meters in place to take advantage of any potential benefits that could be provided by a demand charge.⁶⁰ As Staff recognized, “the Cooperative’s current technology cannot record on a time differentiated basis” and the Cooperative does not currently provide “metering equipment capable of registering on and off-peak billing demand.”⁶¹

The Cooperative’s demand charge proposal is not ready for approval and should be rejected.

E. The Cooperative did not allow member input when developing its rate proposals. The lack of any meaningful opportunity for customers to influence

⁵⁴ Ex. 10 (Rábago) at 59.

⁵⁵ Ex. 10 (Rábago) at 59-60.

⁵⁶ Ex. 10 (Rábago) at 66.

⁵⁷ See Tr. 142.

⁵⁸ Tr. 74; see also Ex. 17 (Rogers Rebuttal) at 6.

⁵⁹ See Tr. 202-203.

⁶⁰ Tr. 206.

⁶¹ Ex. 15 (Gravelly) at 15.

this rate filing is relevant to, and increases the importance of, this proceeding.

Finally, it is clear that the current rate proposal was developed without any member input. This is important because SVEC claims to be a democratic, member-controlled entity.⁶² But its members have testified to serious governance and transparency issues with regard to ratemaking decisions. The Cooperative's customers, for example, are not allowed to attend the Board meetings where such decisions are made.⁶³ Cooperative witness Rogers also admitted that the January 2020 BCC increase, from \$13.76 to \$25.00, was approved by the Board of Directors at a November 2019 meeting, with no members present.⁶⁴ Likewise, members were given no notice of the Cooperative's current rate design proposals and no opportunity to object to them prior to the Board's approval.⁶⁵ As SVEC customer Robert Spiller testified, "the so-called member has little actual chance to affect the [Cooperative's] actions. We are not allowed to attend the Board meetings or even to review detailed minutes of such significant decisions as the allocation of costs among the various classes of customers."⁶⁶

The only notice of the then-forthcoming rate application was a blurb in *Cooperative Living* magazine. The blurb, however, provides no details about the rate application or the Cooperative's rate design proposals.⁶⁷

The Cooperative believes that matters such as communications about the rate case, opportunities for member input on rate design proposals, and other issues related to democratic

⁶² See, e.g., Ex. 16 (Gaines Rebuttal) at 14; Tr. 27, 132-134.

⁶³ Tr. 14, 27; see also Ex. 17 (Rogers Rebuttal) at 2 (explaining that Cooperative members were notified of the rate filing after it was filed on March 16, 2021).

⁶⁴ Tr. 88.

⁶⁵ Tr. 88-91.

⁶⁶ Tr. 14.

⁶⁷ Application at Schedule 15H; Tr. 94.

governance are irrelevant.⁶⁸ To the contrary, the absence of any meaningful opportunity for member input *is* relevant to the Commission’s consideration of this case. The Code of Virginia allows the Cooperative some discretion to make certain rate changes, including changes in rate design, outside of Commission rate proceedings.⁶⁹

The Cooperative has not filed a general rate case since 2014, and it is unclear when the Cooperative may file another one.⁷⁰ Therefore, it is important for the Commission to use its full authority, when it has the opportunity, to carefully scrutinize the Cooperative’s rate proposals. As Mr. Spiller testified, “[t]he State Corporation Commission is the consumer’s only hope of opposing lengthy complex rate increase applications in the case of this lightly regulated Cooperative.”

CONCLUSION

For the forgoing reasons, SUN-VA requests that the Commission enter a final order that *rejects* the Cooperative’s proposed basic consumer charge increase; *rejects* the Cooperative’s proposal to implement a demand charge for residential customers; and *orders* the Cooperative to reduce its basic service charge consistent with the recommendations of SUN-VA witness Rábago.⁷¹

Respectfully submitted,

SOLAR UNITED NEIGHBORS OF VIRGINIA

By counsel

⁶⁸ See Ex. 10 (Rábago) at Exhibit KRR-6 (attaching the Cooperative Response to SUN-VA Set 2-22). At the hearing, counsel for the Cooperative also asserted that “it is irrelevant how the Cooperative communicated with its members about rate revisions that were lawfully made by the Board of Directors.” Tr. 89.

⁶⁹ See, e.g., Va. Code § 56-585.3.

⁷⁰ See Ex. 1 (Application) at 4.

⁷¹ Ex. 10 (Rábago) at 58-59, 66.

/s/ William T. Reisinger

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November 12, 2021

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served this 12th day of November, 2021, by e-mail to:

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