COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF

SHENANDOAH VALLEY ELECTRIC COOPERATIVE **CASE NO. PUR-2021-00054**

For a general increase in electric rates

REPORT OF A. ANN BERKEBILE, SENIOR HEARING EXAMINER

December 2, 2021

This case involves the request of Shenandoah Valley Electric Cooperative ("SVEC" or "Cooperative") for a general increase in its retail electric rates. The record of this case supports the Cooperative's requested jurisdictional revenue increase of $5,325,148, resulting in a reasonable Times Interest Earned Ratio ("TIER") within the range of 2.00 to 2.50x. In my view, SVEC also provided sufficient evidentiary support for the Commission's approval of its proposed increase to its residential basic consumer charge ("BCC") and proposed addition of a residential demand charge.

HISTORY OF THE CASE

On March 16, 2021, SVEC filed an Application ("Application")[1] with the State Corporation Commission ("Commission") seeking a general increase in electric rates pursuant to §§ 56-231.33, 56-231.34, 56-236, 56-238, and 56-585.3 of the Code of Virginia ("Code") and Rule 80 (A) of the Commission's Rules of Practice and Procedure ("Rules of Practice").[2]

On April 5, 2021, the Commission issued an Order for Notice and Hearing ("Procedural Order") that, among other things, authorized the Cooperative to put its proposed rates into effect on an interim basis, subject to refund, effective January 1, 2022; directed SVEC to publish and serve notice of the Application;[3] established a schedule for the submission of notices of participation and prefiled testimony; scheduled a public hearing on the Application for October 6, 2021; and appointed a Hearing Examiner to conduct all further proceedings in this matter and file a final report.

Timely notices of participation were filed by Solar United Neighbors of Virginia ("SUN-VA") and the Board of Supervisors of Frederick County ("Frederick County").

[1] A copy of the Application with supporting documentation, as amended (other than prefiled testimony), was accepted into the record as exhibit ("Ex.") 1. The Cooperative's revised Filing Schedule 5A including its proposed Terms and Conditions (as filed on August 27, 2021) was admitted as Ex. 3.
[2] 5 VAC 5-20-10 *et seq.*
[3] The Cooperative's proof of publication and service was introduced as Ex. 2.

On June 11, 2021, SVEC filed a Motion for Protective Ruling ("PR Motion") wherein it indicated that SUN-VA propounded discovery to the Cooperative seeking confidential information. The Cooperative sought a Protective Ruling to facilitate the handling of confidential information in this proceeding pursuant to Rule 170 of the Rules of Practice.[4]

On June 14, 2021, I entered a Protective Ruling establishing procedures for the protection of confidential information in this case.

On July 26, 2021, SVEC filed a Motion for Leave to Amend Application ("Amendment Motion") wherein the Cooperative represented that the Filing Schedule 5A contained an error regarding its Church Service Schedule (Schedule C-13) and sought leave to file corrected clean and redlined versions of the Church Service Schedule.[5] The Amendment Motion was not opposed. By Ruling dated July 29, 2021, I granted the Amendment Motion.

On September 23, 2021, SVEC filed a Motion *in Limine* seeking to strike portions of the prefiled testimony submitted by SUN-VA. By Ruling dated September 24, 2021, I established an expedited pleadings schedule associated with the Motion *in Limine*. SUN-VA filed a response on September 29, 2021,[6] and SVEC filed a reply on October 4, 2021.[7]

On September 28, 2021, the Cooperative, Staff, and Frederick County (collectively, "Stipulating Participants") filed a Joint Motion to Approve Partial Stipulation ("Stipulation Motion") urging the Commission to approve an agreement reached by the Stipulating Participants to resolve many of the issues raised in this case.

Fifty-one written comments were filed, all of which opposed SVEC's rate proposal.[8] Many of the comments specifically contested the Cooperative's proposal to increase its residential BCC and/or its new residential demand charge. Several comments also suggested that the Cooperative's proposal is regressive, will negatively impact fixed and low-income customers, and will send incorrect price signals. Similarly, various commenters suggested SVEC's proposal will undermine the efficiency efforts of members who have purchased solar panels and/or will discourage further solar investments. Certain commenters also questioned the adequacy of the democratic process and transparency associated with the Cooperative's ratemaking decisions.

A particularly detailed written comment (included in the written comment total above) was submitted by the Sierra Club.[9] The Sierra Club maintained that the fixed customer charge

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[4] PR Motion at 1-2.

[5] Amendment Motion at 1-2.

[6] *See* Response of Solar United Neighbors of Virginia to Shenandoah Valley Electric Cooperative Motion *in Limine* filed September 29, 2021 ("SUN-VA MIL Response").

[7] *See* Shenandoah Valley Electric Cooperative's Reply in Support of Motion *in Limine* filed October 4, 2021 ("SVEC MIL Reply").

[8] Approximately six written comments were submitted on behalf of organizations/entities involved in or specifically supporting the solar industry.

[9] *See* Comments of Sierra Club filed September 29, 2021 ("Sierra Club Comments"). Also, on September 29, 2021, Appalachian Voices provided written comments addressing many of the same issues raised by the Sierra Club.

proposed by SVEC is not in the public interest and goes against Virginia public policy as reflected by various statutes including the Virginia Clean Economy Act and the Commonwealth Clean Energy Policy.[10] The Sierra Club also maintained that increasing the fixed customer charge is inequitable because it will disproportionately burden low users of electricity including low-income customers.[11] Furthermore, the Sierra Club suggested SVEC's management precluded members from participating in the decision making process regarding rates, and denied that decisions of cooperative boards are entitled to significant deference when memberships do not actually participate in the decision-making process.[12]

The hearing in this matter was convened, as scheduled, on October 6, 2021. Eric M. Page, Esquire, and Cody T. Murphey, Esquire, appeared on behalf of the Cooperative. William T. Reisinger, Esquire, appeared on behalf of SUN-VA. Roderick B. Williams, Esquire, appeared on behalf of Frederick County. Kelli Cole, Esquire, and Kiva B. Pierce, Esquire, appeared on behalf of the Staff of the Commission ("Staff").

After the transcript of the hearing ("Tr.") was provided to the case participants, I entered a Ruling on October 15, 2021, establishing November 12, 2021, as the deadline for filing post-hearing briefs.[13]

SUMMARY OF THE RECORD

Public Witnesses

Sally Newkirk testified that she has been a SVEC customer for twenty years. She requested that the Commission deny the Cooperative's request for a rate increase. She described her efforts to make her home more energy efficient including her investment in rooftop solar and suggested SVEC's rate proposal is punitive. Furthermore, it was her understanding that demand charges, like the demand charge proposed by the Cooperative, are normally imposed on commercial rather than residential customers. Finally, she testified that minutes of SVEC's Board of Directors show no Cooperative Board members asked questions regarding the energy burden of the Cooperative's proposal on its members.[14]

Robert Spiller, a member of SVEC, opposed the Cooperative's proposed rate increase. He also indicated that he submitted a written comment in opposition to the Application. It was his understanding the Cooperative is lightly regulated and believes SVEC's members have little

[10] Sierra Club Comments at 1-2 (citing 2007 Acts of Assembly, Chapter 888 (HB 3068)), § 10.1-1308 E of the Code, Governor's Executive Order 43 (2019), and § 45.2-1706.1 of the Code). The Sierra Club also maintained the approval of an increase in fixed rates would set a bad precedent with potential implications for customers across Virginia. *Id.* at 4.
[11] *Id.* at 3.
[12] *Id.* at 4-5.
[13] *See* Post-Hearing Brief of Shenandoah Valley Electric Cooperative filed November 12, 2021 ("SVEC Brief"); Post-Hearing Brief of Solar United Neighbors of Virginia filed November 12, 2021 ("SUN-VA Brief"); Board of Supervisors of Frederick County, Virginia's Post-Hearing Brief filed November 12, 2021 ("Frederick Brief"); Staff letter in lieu of brief filed November 12, 2021 ("Staff Brief").
[14] Tr. at 10-11.

ability to control the Cooperative's actions. He urged the Commission to protect SVEC's members. Specifically, he opposed SVEC's proposal because it adds 20% to the BCC, includes a demand charge associated with a peak that customers cannot track, and does not demonstrate a true rebalancing of rates.[15]

Jeffery Scott Heie testified as a representative of Give Solar in opposition to the Cooperative's proposal. He explained that Give Solar works with Habitat for Humanity ("Habitat") to make homes and energy more affordable for low-income people. Specifically, he indicated that he works to provide a pathway for Habitat homeowners to own and benefit from solar systems. In his assessment, SVEC's proposal to make a large portion of the residential customer's electricity bill a fixed charge makes it more difficult for low-income persons to benefit from energy efficiency and solar. Moreover, he maintained that the Cooperative's $30 minimum bill will hurt low-income and low-usage customers the most.[16]

Emily Piontek testified on behalf of Appalachian Voices in opposition to SVEC's rate proposal. She noted that the Commission received numerous written comments opposing the Cooperative's request and believes many of the comments were submitted by members on fixed income. It was also her understanding that numerous written comments were submitted by members who have installed solar panels for energy efficiency. She believes these members perceive a negative impact on energy efficiency associated with SVEC's increased fixed charge and new demand charge. In addition, she highlighted the Cooperative's recent past increase to its fixed charge and characterized SVEC's current fixed charge as one of the highest of any utility in Virginia. In her assessment, SVEC's proposed fixed and demand charges will blunt energy efficiency and hurt low-income members. Finally, she maintained that the Cooperative's membership is prevented from attending Board meetings thereby limiting the Board's accountability and oversight.[17]

Joy Loving explained that she is a Dominion net-metered customer but has neighbors who are SVEC customers.[18] She urged the Commission to deny the Cooperative's proposal because, in her assessment, it is unjustified and unfair and will disproportionately harm low-income customers and customers on a fixed income. She testified that she pays a much lower fixed customer charge ($6.58) than the $30 fixed charge proposed by SVEC. Furthermore, she maintained that the Cooperative should not be disincentivizing customers from lowering their energy bills and carbon footprints through renewable energy. In addition, she believes it would be helpful for SVEC to clearly explain how its proposal is revenue neutral and to provide whatever solar data it may have relative to the ability of SVEC's net-metering customers to lower peak demand.[19]

Eric Beck testified that he is a SVEC member and solar system owner. He also indicated that he owns a custom home building company and solar design installation company. He testified that his companies work with Habitat and have provided solar systems on four Habitat

[15] *Id.* at 13-16.
[16] *Id.* at 19-22.
[17] *Id.* at 24-28.
[18] *Id.* at 30-32.
[19] *Id.*

homes. He believes the Cooperative's proposal will be felt most by solar owners and will de-incentivize energy efficiency. Among other things, he believes SVEC's proposal hinders payback on solar systems by three to five years. Furthermore, although he acknowledged that the proposed demand charge rate for the summer months could help solar owners somewhat, he believes any such benefit would be insufficient to adequately offset the proposed fixed charge increase. He also believes the Cooperative's proposal for a $30 fixed charge, in contrast to the lower fixed charges of neighboring utilities, will harm lower income customers and hinder their ability to lower their energy bills through reduced usage. He urged the Commission to reject SVEC's proposal and, instead, requested that the Commission encourage SVEC to pursue other revenue structures to fund necessary infrastructure maintenance.[20]

Seth Heald testified that he is a member of Rappahannock Electric Cooperative and co-founder of a campaign to improve and increase transparency in cooperative governance. In his assessment, SVEC's proposal to further increase its fixed charge, which was already increased in the recent past, discourages conservation and efficiency and encourages wasteful and excessive consumption. He also believes the proposal constitutes a wealth transfer from the poor to the rich because it shifts the burden of paying for the Cooperative's system to those who use it the least. He opined that any necessary increase in revenue should be achieved through an increase to the volumetric charge. Furthermore, it was his understanding SVEC did not educate its customers regarding its proposal before coming to the Commission for approval and believes such failure to educate prevented customers from voicing their concerns to the Board. Moreover, he maintained that the Commission should not assume the Cooperative is democratically controlled.[21]

Carmen Bingham, a representative of the Virginia Poverty Law Center ("VPLC"), outlined VPLC's concerns regarding SVEC's proposed fixed charge increase and proposed terms and conditions. She testified that VPLC recommends the Commission's denial of the proposed increase to the fixed charge and, instead, supports the Commission's recommendation to SVEC to reconsider a rate schedule including a fixed charge reflecting direct customer cost and sending a proper pricing signal relative to high consumption and peak demand. Regarding the Cooperative's terms and conditions, VPLC recommends: (1) a deposit requirement with flexible terms reflecting a customer's ability to pay and treat it as money held by the customer; (2) use of customized repayment plans; and (3) review of the terms and conditions by members of various customer classes to provide updated information such as repayment options.[22]

Janet Trettner, a member of SVEC, outlined what she perceived to be the purpose of an electric cooperative, including keeping prices low, encouraging efficiency, and acknowledging the impact of fossil fuels. She questioned the representation of SVEC's CEO that the new proposed rates will enable members to better control both their consumption and demand, whereas they were previously only able to control consumption. She believes SVEC should work with its members to encourage efficiency investments rather than deterring them through increased fixed costs. She also believes the Cooperative's proposed fixed charge constitutes an

[20] *Id.* at 35-40.
[21] *Id.* at 42-46.
[22] *Id.* at 48-53.

unfair transfer of wealth. Moreover, she testified, under the Cooperative's proposal, she is unsure how to track the timing of her energy consumption to avoid a higher charge. In her assessment, charging residential members for their individual peak demands, regardless of when such peaks occur, shows SVEC's proposal is not cost-based.[23]

SVEC - Direct

The Cooperative presented the direct testimonies of **Gregory S. Rogers,** President and Chief Executive Officer of SVEC; **J. Michael Aulgur**, the Cooperative's Vice President and Chief Financial Officer; and **Jack D. Gaines**, President of JDG Consulting, LLC.

Mr. Rogers provided an overview of the Cooperative's operations and identified the reasons for SVEC's requested rate increase.[24] He explained that SVEC proposed in the Application to adjust its jurisdictional sales revenues by $5.3 million to pay expenses, service debt, fund capital additions and meet financial goals established by the Cooperative's Board of Directors.[25] According to Mr. Rogers, the proposed increase would produce jurisdictional margins of $13.4 million and a TIER of 2.35x and modified margins – total margins less accrued capital credits and plus capital credits received – in the amount of $11.5 million with a modified TIER ("MTIER") of 2.16x.[26] In addition, he outlined SVEC's efforts to inform its members of the requested increase.[27] He also testified that the Cooperative does not have affiliate transactions to report because it does not have affiliates.[28]

Mr. Rogers testified that SVEC proposes a new distribution rate structure for its residential members including a minimal demand charge that, according to Mr. Rogers, will have a "negligible effect" on most residential and church service members.[29] He further explained that the Cooperative intends to deploy new metering technology and enhance the demand price structure by including a time-of-use ("TOU") differential.[30] In addition, he testified that SVEC intends to implement the new demand charge gradually by introducing a low-level demand charge to its single-phase accounts.[31] Similarly, he represented that future adjustments to the demand charge will be gradual.[32] Mr. Rogers also outlined the Cooperative's plan for educating its members about the new demand charge.[33]

Mr. Rogers identified five additional new proposals included in SVEC's Application: (i) the addition of a seasonal adjustment kilowatt-hour ("kWh") pricing for residential, general, church, and large power service; (ii) the addition of a new Alternate Supplier Cost Adjustment

[23] *Id.* at 55-60.
[24] Ex. 4, at 2-4.
[25] *Id.* at 3.
[26] *Id.* at 3-4.
[27] *Id.* at 4.
[28] *Id.*
[29] *Id.* at 4-5.
[30] *Id.* at 5.
[31] *Id.*
[32] *Id.*
[33] *Id.* at 5-6.

for members served under the Coincident Peak-Load Control Schedule; (iii) the addition of a new residential rider for community solar energy subscriptions; (iv) the elimination of its Schedule S-7 Seasonal Residential Service tariff (and the movement of members on such tariff to the residential tariff); and (v) the closure of Schedule HPS-2, HPS Light Service with the intent to provide all new light service under Schedule LED-2, LED Light Service.[34]

When cross-examined by SUN-VA at the hearing, Mr. Rogers acknowledged that SVEC's Board of Directors increased the Cooperative's BCC from $13.76 to $25 in January 2020 pursuant to its statutory rebalancing authority, while at the same time reducing the energy charge.[35] He also acknowledged that, except for the Board of Directors, no Cooperative members were present during the November 2019 Board meeting when the decision to increase the BCC as of January 2020 was made.[36] He also emphasized that the individuals making up the SVEC's Board of Directors are members of the Cooperative.[37] Regarding the notice of SVEC's proposed rate increase that was provided in *Cooperative Living Magazine,* Mr. Rogers acknowledged that such notice did not provide details of the Application.[38]

Mr. Aulgur provided an overview of the Cooperative's financial condition and sponsored several ratemaking adjustments.[39] Among other things, he explained that SVEC has total utility plant-in-service exceeding $576 million, net margins of $10.0 million, and a TIER of 1.98x for the year ending March 31, 2020 ("Test Year").[40] In addition, he testified that the Cooperative retired capital credits to members of $5.1 million in 2018, $3.6 million in 2019, and $4.7 million in 2020.[41] Furthermore, he testified that SVEC's equity ratio was 36.3% at the end of the Test Year.[42] Although the Cooperative was able to meet its financial obligations while achieving a Test Year TIER of 1.98x and a modified debt service coverage ratio ("MDSC") of 1.86x, Mr. Aulgur maintained that rate revisions are necessary for SVEC to continue to meet its financial obligations.[43] He also outlined the steps taken by the Cooperative to mitigate and delay its request for a rate increase including modifying the retirement plan for its employees, obtaining a Paycheck Protection Program Loan, and increasing its distribution rates by 5%.[44]

Mr. Aulgur explained that SVEC seeks a revenue increase of $5.3 million for the period of January 1-December 31, 2022 ("Rate Year"),[45] resulting in a Rate Year TIER of 2.35x.[46] He testified that such increase is required to maintain its current system and make prudent

[34] *Id.* at 6.
[35] Tr. at 85-86. *See also* Ex. 5. Mr. Rogers subsequently acknowledged that an increase of the BCC from $13.76 to $30 was significant. Tr. at 93.
[36] Tr. at 88.
[37] *Id.* at 91.
[38] *Id.* at 94.
[39] Ex. 6, at 2-3.
[40] *Id.* at 2.
[41] *Id.*
[42] *Id.*
[43] *Id.* at 3.
[44] *Id.* at 4-5.
[45] As explained by Staff witness Mangalam, January 1, 2022, through December 31, 2022, constitutes the Rate Year involved in this case. Exs. 13 and 13C, at 2-3. *See also* Ex. 1, at 5.
[46] Ex. 6, at 5.

investments and system upgrades to meet future demand.[47] He further explained that SVEC requires adequate margins to cover potential costs related to severe storm damage and other risks and uncertainties.[48] In addition, he maintained that the Cooperative's revenues must keep pace with increasing operation costs despite a lack of significant growth in usage levels in recent years.[49] Moreover, he testified that shifts in member behavior toward energy efficient investments and alternative energy sources, such as rooftop solar, supports SVEC's movement away from a cost recovery methodology largely based on consumption to one better reflecting demand.[50] Mr. Aulgur also identified the Cooperative's planned capital expenditures over the next five years, among other things, explaining that the Cooperative's capital work plan is projected to cost $41.5 million in the first year, and average $48.9 million from 2022 through 2024.[51]

Mr. Aulgur also explained and supported the following ratemaking adjustments: (1) a jurisdictional decrease of $196,834 uncollectible accounts expense;[52] (2) a jurisdictional increase of $1,119,243 to payroll and overtime expenses;[53] (3) a jurisdictional increase of $83,478 to payroll tax expense;[54] (4) a jurisdictional decrease of $325,796 to employee retirement expense (associated with the replacement of the Cooperative's pension (R&S) plan with a 401k plan);[55] (5) a jurisdictional increase of $31,920 to rate case expense;[56] (6) a jurisdictional increase of $473,461 to right-of-way clearing expense;[57] (7) a jurisdictional increase of $1,031,081 to major storm damage expense (including a reversal of an accounting deferral of $840,775);[58] (8) a jurisdictional increase of $12,254 to dues and subscription expense;[59] (9) a jurisdictional increase of $1,065,783 to depreciation expense;[60] (10) a jurisdictional increase of $62,507 for property tax expense;[61] (11) a jurisdictional decrease of $319,432 to other interest;[62] (12) a jurisdictional decrease of $1,843,582 to other income;[63] and (13) a jurisdictional decrease of $54,103 to interest expense.[64]

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47 *Id.*
48 *Id.*
49 *Id.*
50 *Id.* at 3.
51 *Id.* at 3-4.
52 *Id.* at 6.
53 *Id.*
54 *Id.* at 7.
55 *Id.*
56 *Id.*
57 *Id.* at 7-8.
58 *Id.* at 8.
59 *Id.*
60 *Id.* at 9.
61 *Id.*
62 *Id.*
63 *Id.* at 10.
64 *Id.*

Mr. Gaines supported SVEC's jurisdictional allocation and class cost-of-service ("COS") study.[65] He also provided an overview of the Cooperative's Application, revenue requirements, ratemaking adjustments, proposed rate design, and class revenue distribution.[66]

According to Mr. Gaines, SVEC requests approval of changes in its rate schedules for retail electric service to achieve the following primary objectives: (1) to increase yearly jurisdictional revenues by $5.3 million so as to produce total Rate Year jurisdictional margins of $13.4 million and a 2.35x TIER and MTIER of 2.16x;[67] (2) to roll into Power Supply Service ("PSS") rates Rate Year level of power cost adjustment ("PCA") revenues;[68] (3) to improve parity by allocating a proposed distribution revenue increase among the classes based on the class COS;[69] (4) to introduce a demand charge to the distribution service portion of the Cooperative's proposed rate Schedules A-12 and C-12;[70] (5) to introduce seasonal pricing to PSS rates in Schedules A-12, C-12, B-12, and LP-12;[71] (6) to rebalance rates to facilitate, "as nearly as practical," the recovery of Rate Year allocated purchased power expense through the PSS rate of each tariff;[72] (7) to rename the current Coincident Peak Load Control Rider (Schedule PC-4) as Schedule LCR-1;[73] (8) to introduce a new Schedule AS-1 for use in allocating a portion of net savings or costs from the Morgan Stanley power supply agreement Schedules PC-5 and LCR-1;[74] and (9) to introduce a new Schedule SSR-1 for community solar subscription service.[75]

Mr. Gaines described the Cooperative's Filing Schedule 3/financial status statement. Filing Schedule 3 supports SVEC's proposals to increase Test Year jurisdictional distribution revenues by $6,066,200 (including $609,189 of non-purchased power costs transferred from base PSS rates); to reduce base PSS revenue by $14,251,322 (and offset such reduction by a PCA revenue increase of $13,642,133); to increase net sales revenues by $5,457,011; and to decrease facilities charge revenues booked as Other Electric Revenue by $131,863 – thereby resulting in a net overall Rate Year operating revenue increase of $5,325,148.[76] He also explained SVEC's adjustments to reclassify property taxes spread to operations and maintenance ("O&M") accounts in accordance with accounting guidelines from the Rural Utilities Service ("RUS").[77] In addition to reiterating that the revenues proposed by SVEC will produce a Rate Year TIER of 2.35x, he explained that such revenues will produce a Rate Year debt service coverage ratio ("DSC") of 2.11x, and a Rate Year rate of return on rate base ("ROR") of 5.10%.[78] According to Mr. Gaines, SVEC's overall proposed revenue requirement of $266,680,999 is appropriate

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[65] Ex. 7, at 2. Mr. Gaines' prefiled testimony was admitted as corrected on page 29 and including his revised Schedules 6 and C-13. Tr. at 99-100.
[66] *Id.* at 3-5.
[67] *Id.* at 3-4.
[68] *Id.* at 4.
[69] *Id.*
[70] *Id.*
[71] *Id.*
[72] *Id.*
[73] *Id.*
[74] *Id.*
[75] *Id.* at 5.
[76] *Id.* at 5-6.
[77] *Id.* at 5.
[78] *Id.* at 6.

because rates producing a TIER of 2.35x should provide the Cooperative with sufficient margins and cash flow to pay expenses, service debt, fund capital additions, retire patronage, and maintain its equity ratio.[79] Furthermore, although Mr. Gaines maintained that a TIER of 2.35x was appropriate given SVEC's planned increases in plant investment, he clarified that the Cooperative would not seek an adjustment to its requested revenue requirement to achieve a 2.35x TIER as long as the Commission approves rates producing a TIER within the range of 2.00 to 2.50x.[80]

Mr. Gaines next discussed SVEC's ratemaking adjustments summarized in Filing Schedule 4A and explained in Filing Schedule 4B.[81] He described his various adjustments to revenues and consideration of customer growth (based upon the number of customers estimated to be billed as of March 31, 2021).[82] He also explained his calculation of Rate Year kWh sales and demand billing determinants and inclusion of adjustments to purchased power expense and rate base items consistent with customer growth through March 31, 2021.[83] Among other things, he explained that he calculated an adjustment to purchased power expense (a decrease of $19,659,406) using a Rate Year power cost based upon Old Dominion Electric Cooperative ("ODEC"), Morgan Stanley, and Southeastern Power Administration ("SEPA") rate effective January 1, 2021, and applying such cost to Rate Year billing determinants including consumer growth kWh.[84] His adjustment for purchased power expense also removed the Test Year ODEC margin stabilization credit.[85] Furthermore, he explained that his adjustment to rate base was calculated using balance sheet items as of December 31, 2020, and using Rate Year O&M for his working capital calculation.[86] He then summarized his proposed revenue adjustments as follows: (1) Adjustment 8-1 increasing base distribution rate revenue by $6,066,200; (2) Adjustment 8-2 decreasing base PSS revenue by $14,251,322 for proposed base PSS rates; (3) Adjustment 8-3 increasing PCA revenues by $13,640,670 (and reflecting a roll-in of PCA revenues to base PSS rates); and (4) Adjustment 6-4 reducing facilities charge revenues by $131,863 (based upon SVEC's proposal for reducing the facilities charge rate).[87] The combined effect of such adjustments supports the Cooperative's proposed net increase in operating revenue of $5,325,148.[88]

Mr. Gaines next addressed SVEC's proposed jurisdictional allocation and class COS studies.[89] He described the two COS studies included with the Application – Filing Schedule 13, the jurisdictional allocation, and Filing Schedule 7, the class COS study incorporating SVEC's adjustments.[90] He also explained the methodology and process for creating these two

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[79] *Id.*
[80] *Id.* at 6-7.
[81] *Id.* at 7-8.
[82] *Id.* at 8.
[83] *Id.* at 9-10.
[84] *Id.* at 10.
[85] *Id.*
[86] *Id.*
[87] *Id.* at 11.
[88] *Id.*
[89] *Id.* at 11-22.
[90] *Id.* at 11.

studies.[91] Among other things, he explained that the COS studies: (1) functionalize costs as production, transmission or distribution, and sub-functionalizes costs within such categories; (2) classify such costs as demand-related, energy-related, consumer-related, revenue-related, and/or direct assignment; and (3) use different allocation factors, varying depending on the nature of the cost, to allocate costs across the customer classes.[92] He also explained his cost classification process utilizing a hybrid minimum-intercept/minimum-size methodology necessitated by SVEC's lack of sufficient historical data.[93] Similarly, he provided an overview of the allocation process including a description of the methodologies used for calculating purchased power costs, class demand allocation factors for the demand-related distribution system plant and expenses, consumer allocation factors, and for rate base and expense allocations.[94]

Mr. Gaines' Table 1, shown below, summarizes the results of the adjusted class COS study shown on Filing Schedule 7:[95]

Table 1

Class	Present ROR	Present ROR Ratios	Proposed ROR	Proposed ROR Ratios
Lighting	8.55%	2.28	8.31%	1.64
Schedule A-12	2.15%	0.58	3.93%	0.77
Schedule S-7	3.97%	1.06	3.77%	0.74
Schedule C-12	(5.06)%	(1.35)	(1.84)%	(0.36)
Schedule B-12	7.64%	2.04	7.95%	1.57
Schedule LP-12	7.12%	1.90	7.56%	1.49
Schedule PC-5	3.38%	0.90	5.09%	1.00
Total	**3.74%**	**1.00**	**5.08%**	**1.00**

According to Mr. Gaines, the ROR ratios reflected on his Table 1 show that, except for Schedule S-7, SVEC's proposed rates move closer to a 1.00 ratio indicating that parity is improved.[96] He further explained that the Cooperative proposes to withdraw Schedule S-7 for seasonal residential service and transfer the associated customers to Schedule A-12.[97] In addition, he described SVEC's Filing Schedules 14A, 14B, and 14C relating to the functional separation of revenues, expenses, and rate base (and submitted in accordance with 20 VAC 5-200-21).[98]

[91] *Id.* at 12-21.

[92] *Id.* at 13. Mr. Gaines also explained that none of the Cooperative's revenues or costs are categorized as transmission because transmission service is provided by ODEC and included as purchased power expense. *Id.* at 22.

[93] *Id.* at 14-17.

[94] *Id.* at 17-21.

[95] *Id.* at 21-22.

[96] *Id.* at 22.

[97] *Id.* Mr. Gaines also noted that the RORs for Schedules S-7 and Schedule A-12 are very close. *Id.*

[98] *Id.*

Mr. Gaines next addressed the Cooperative's proposed rate design and class revenue distribution.[99] Among other things, he provided the following chart summarizing the composition and allocation of SVEC's proposed revenue increases (included in Filing Schedule 5B):[100]

Class	Revenue (1,000s)	Percent
Schedule A-12	$4,628.8	3.75%
Schedule C-12	$134.8	9.83%
Schedule S-7	$(7.1)	(0.60)%
Schedule B-12	$195.6	0.50%
Schedule LP-12	$247.5	0.50%
Schedule PC-5	$134.0	3.45%
Schedule CMV-2	$(0.0)	(0.02)%
Schedule HPS-2	$(0.1)	(0.02)%
Schedule LED-2	$(8.5)	(6.45)%
Total	**$5,325.1**	**2.43%**

He also described SVEC's proposal to update its existing tariff numbers in the following sequence:[101]

Schedule A-12 to Schedule A-13
Schedule C-12 to Schedule C-13
Schedule B-12 to Schedule B-13
Schedule LP-12 to Schedule LP-13
Schedule PC-5 to Schedule PC-6
Schedule PC-4 to Schedule LRC-1
Schedule CMV-2 to Schedule CMV-3
Schedule HPS-2 to Schedule HPS-3
Schedule LED-1 to Schedule LED-3
Schedule PCA-1 to Schedule PCA-2.

Regarding rate design, Mr. Gaines explained that Schedule PCA-1 constitutes a PCA designed to recover purchased power expense on a dollar-for-dollar basis.[102] He also explained that the Cooperative proposes a PCA factor as $0.000000654629 per kWh as a means of addressing a very small difference of $1,462 between proposed base PSS revenue and purchase power expense.[103] Furthermore, he testified that SVEC proposes changes to Schedule PCA-1 to: (1) eliminate rate features that are no longer applicable; (2) update the formula to

[99] *Id.* at 23-38.
[100] *Id.* at 23. Mr. Gaines also explained SVEC's proposed updates to existing tariff numbers (with each existing tariff number going up by 1) but clarified that he used existing tariff numbers in his testimony except when discussing Schedule LCR-1 (which was previously named Schedule PC-4). *Id.* at 23-24.
[101] *Id.* at 23-24.
[102] *Id.* at 24.
[103] *Id.* at 24-25.

accommodate third-party purchased power agreements other than ODEC and SEPA; and (3) eliminate the non-purchased power cost component of PSS revenues from the over- and under-recovery amount calculation.[104]

Mr. Gaines also discussed SVEC's proposal to introduce a demand charge to the distribution portion of Schedules A-12 and C-12.[105] He maintained that the addition of such a demand charge is appropriate as a more cost-based method than recovering demand costs through energy consumption charges.[106] According to Mr. Gaines, comparable demand charges have not historically been applied to residential rates because of increased metering costs.[107] However, he suggested that increased metering cost concerns are no longer applicable because the Cooperative has now deployed metering technology that can effectively meter demand for all customers.[108] He further explained that the Cooperative plans to install new Advanced Metering Infrastructure ("AMI") technology in the coming years that will be capable of recording demand by hour or 15-minute intervals.[109] He also explained SVEC's plan to gradually introduce the demand charge to "introduce the concept and structure of billing for demand with minimal bill impact."[110] It was Mr. Gaines' understanding that the Cooperative's Board will have the authority to gradually increase the demand charge going forward if the Commission approves SVEC's proposal in this case.[111] He opined that the Board's authority to effectuate a gradual increase was beneficial to customers and a means of avoiding larger increases in a rate case.[112] In addition, Mr. Gaines provided examples of customer impacts associated with the Cooperative's demand charge proposal and confirmed the Commission's approval of a similar proposal in another cooperative rate case.[113]

In support of SVEC's proposal to withdraw Schedule S-7, Mr. Gaines explained there is a diminished need for a separate rate for seasonal customers once the BCC component of Schedule A-12 is increased to a fully cost-based level.[114] He also described the Cooperative's proposed pricing changes to the PSS portion of Schedule A-12 to roll in a $(0.00611) credit per kWh Rate Year PCA and to correct for any imbalance between PSS revenue and Rate Year purchased power expense allocated to Schedules A-12 and S-7 in the class COS.[115] According to Mr. Gaines, the Commission approved a similar blocked seasonable PSS rate structure in another cooperative rate case.[116]

Mr. Gaines provided an overview of the Cooperative's proposed changes to the distribution portion of Schedule A-12, including a proposed incremental off-peak demand charge

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[104] *Id.* at 25.
[105] *Id.* at 25-29.
[106] *Id.* at 25.
[107] *Id.* at 26.
[108] *Id.*
[109] *Id.*
[110] *Id.* at 26-27.
[111] *Id.* at 28.
[112] *Id.*
[113] *Id.* at 29.
[114] *Id.* at 29-30.
[115] *Id.* at 30.
[116] *Id.*

which will initially be used as a placeholder until SVEC's meters have the ability to measure on- and off-peak demand.[117] Among other things, he explained that as long as the demand charge and incremental off-peak demand charge are the same, there will be no impact on customer bills.[118] Furthermore, it was his understanding SVEC's Board intends to gradually introduce a price differential between on- and off-peak demand charges while rebalancing rates pursuant to § 56-585.3 A 4 of the Code.[119]

In addition, Mr. Gaines described the Cooperative's proposed changes to the availability language applicable to Schedule A-12.[120] He explained that, in addition to clarifying seasonal customers now qualify for Schedule A-12, SVEC added a sentence to clarify that Schedule A-12 is not available for construction service.[121] Furthermore, the Cooperative proposes an addition to its Special Terms and Conditions to protect against "the risk of revenue erosion should seasonal consumers be inclined to reconnect and disconnect in responses to the increases in the BCC."[122]

Mr. Gaines also described the Cooperative's proposed pricing and rate design changes associated with Schedules C-12,[123] B-12,[124] LP-12,[125] PC-5,[126] CMV-3,[127] HPS-3,[128] and LED-3.[129] Among other things, he explained that SVEC's proposed pricing and rate design change for Schedule C-12 is similar to what was proposed for Schedule A-12 (and includes a distribution demand charge of $0.10 per kW and an incremental off-peak demand charge of $0.10 per kW).[130] In addition, SVEC's proposed pricing and rate designs for Schedules C-12, B-12, and LP-12 each include an adjustment to roll in a $(0.00611) Rate Year PCA and to correct for any imbalance between PSS revenue and Rate Year purchased power expense.[131] Mr. Gaines also explained that no change needs to be made to the PSS portion of the Schedule PC-5 rate (except for the removal of a per kWh adder for the recovery of non-purchased power supply costs) because purchased power costs based on ODEC's wholesale rate are passed through directly.[132]

Regarding the facilities charge, Mr. Gaines explained the Cooperative's proposal to update its Terms and Conditions of Service by decreasing the Section VI.E.1 facilities charge from 10.5576% per year to 9.61% per year and its proposal to decrease the VI.E.2 facilities charge from 19.3735% per year to 16.32% per year.[133] In addition, he explained SVEC's

[117] *Id.* at 31.
[118] *Id.* at 32.
[119] *Id.*
[120] *Id.* at 32-33.
[121] *Id.* at 32.
[122] *Id.* at 33.
[123] *Id.*
[124] *Id.* at 33-34.
[125] *Id.* at 34-35.
[126] *Id.* at 35.
[127] *Id.* at 35-36.
[128] *Id.*
[129] *Id.*
[130] *Id.* at 33.
[131] *Id.* at 33-34.
[132] *Id.* at 35.
[133] *Id.* at 36.

proposal to add a new tariff, Schedule AS-1, for implementation as of the February 2022 billing.[134] According to Mr. Gaines, the Cooperative intends to use Schedule AS-1 as a mechanism for passing through a load ratio share of the net benefits or net costs of the Morgan Stanley power contract while continuing to directly pass through ODEC power costs based upon each customer's usage and coincident billing demands.[135] He also explained SVEC's proposal to add Schedule SSR-1 to Schedule A-12 as a community solar subscription rider.[136]

At the conclusion of his prefiled testimony, Mr. Gaines opined that the revenues requested by the Cooperative are necessary to maintain its financial integrity and the rates and charges proposed in the Application are fair, just and reasonable.[137]

When cross-examined by SUN-VA, Mr. Gaines acknowledged that cost allocation methodologies are somewhat subjective and analyst opinions differ on how such allocations should be conducted.[138] He was aware of the basic customer methodology for cost allocation but maintained the hybrid minimum intercept and minimum size allocation methodology used by SVEC in this case is used by most cooperatives throughout the nation.[139] He acknowledged advocating to the Cooperative's Board a move from volume-based to demand-based cost recovery as a more equitable means of collecting necessary revenue.[140] Furthermore, he explained that he made his recommendation to the Board, in part, to avoid revenue erosion resulting from distributed generation, including solar generation.[141] In addition, Mr. Gaines maintained that he considered energy efficiency and impacts on customers with solar when he formulated his rate design recommendation, as reflected by (1) the inclusion of an inclining block rate for summer usage within the power supply portion of the residential bill, and (2) by adjusting the distribution rate to ensure fixed customer-related cost recovery to avoid revenue erosion.[142]

On redirect, Mr. Gaines clarified that the results of his cost of service analysis supported a monthly customer charge of $32,[143] as compared to the $30 charge proposed in this case. He also indicated that he has been involved in other cooperative cases before the Commission wherein the Commission has approved the cost of service methodology he used in the instant case.[144] Furthermore, he continued to support SVEC's demand charge proposal as part of a long term strategy, as the Cooperative replaces existing meters, to address issues such as charging electric vehicles.[145]

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[134] *Id.* at 37.
[135] *Id.*
[136] *Id.* at 38. Mr. Gaines noted that such rider is similar to community solar tariffs previously approved by the Commission. *Id.*
[137] *Id.*
[138] Tr. at 104.
[139] *Id.* at 104-05.
[140] *Id.* at 110. *See also* Ex. 8 (SVEC response to SUN-VA Interrogatory 56 (Fourth Set) with attached minutes from SVEC Board meeting on January 28, 2021).
[141] Tr. at 111-12.
[142] *Id.* at 114-15.
[143] *Id.* at 116.
[144] *Id.* at 117.
[145] *Id.* at 118-19.

SUN-VA

SUN-VA presented the testimony of **Karl R. Rábago**, principal of Rábago Energy, LLC, an energy consulting firm.[146]

Mr. Rábago addressed SVEC's ratemaking, revenue requirement and rate design.[147] In his assessment, the Cooperative's proposed rates are unjust, unfair, and unreasonable for the following primary reasons:[148]

1. The proposed fixed customer and demand charges are not grounded in sound ratemaking practices.
2. The proposed fixed customer and demand charges are economically regressive and will impose extreme burdens on low-use and low-income customers during a period when SVEC's customers are struggling to recover from an economic downturn and pandemic.
3. The proposed rate structure is overly complex and punitive because it (a) provides that one-third of a customer's bill will be non-bypassable and cannot be lowered by behavior; (b) includes an unreasonably high fixed charge; (c) includes a demand charge based on non-coincident peak usage rather than cost-causation; (d) includes a new 800 kWh per month TIER for summer rates during the first four months of the year; (e) includes a power cost delivery charge; and (f) provides a completely restructured distribution delivery charge.[149]
4. There has not been member engagement in the development of the proposed rates, and they contain elements which, without sufficient education or tools, will make it difficult for members to manage their electric bills.
5. The proposed rates are not designed to enable residential customers to exercise more control over their electricity usage or manage their bills.
6. The proposed rates send the wrong price signal to members and will encourage overbuilding, waste and fiscal irresponsibility.

Based upon such factors, Mr. Rábago recommended that the Commission deny SVEC's proposed rate design changes.[150]

Mr. Rábago provided an overview of the statutes applicable to the Cooperative's proposal and a description of SVEC's request for the approval of a 20% increase to the fixed customer charge for residential customers.[151] Among other things, he noted that the Cooperative proposes to increase the fixed customer charge for residential customers to $30, regardless of what

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[146] SUN-VA also provided a late-filed exhibit correcting various typographical errors in Mr. Rábago's prefiled testimony. *See* Ex. 12.
[147] Ex. 10, at 5.
[148] *Id.* at 5-6.
[149] Mr. Rábago also noted that the Cooperative's management intends to implement more complexities and rate increases in the near future. *Id.* at 6.
[150] *Id.*
[151] *Id.* at 6-7.

customers do to conserve electricity.[152] He asserted that SVEC's fixed customer charge increase is 240% greater than the cumulative rate of inflation and 150% higher than the projected cumulative rate of inflation to 2022.[153] Moreover, he maintained that the Cooperative improperly included certain costs within the fixed customer charge (based upon its use of the minimum system and minimum intercept methods), denied that SVEC status as a cooperative rather than an investor-owned utility justifies the fix customer charge, and asserted that the decision to implement the higher fixed customer charge is not a product of the Cooperative's democratic control.[154] In addition, he testified that SVEC's proposed BCC is higher than the fixed customer charges of other cooperatives.[155] He also explained his belief that fixed customer charges, such as the one proposed by the Cooperative, are unreasonable because they send a strong price signal against the efficient use of electricity by reducing volumetric charges and encouraging "excessive, wasteful, and polluting energy use."[156] Similarly, he maintained that such charges undercut the effectiveness of TOU rates.[157] Furthermore, he maintained that a fixed customer charge should be based on costs varying only with the number of customers.[158]

Mr. Rábago maintained that an increase to the fixed customer charge is regressive because such an increase falls disproportionately on low-income customers who are likely to be low users of electricity and, therefore, will experience higher bill impacts associated with such an increase.[159] In his assessment, SVEC's management does not believe potential impacts from the increased fixed customer charge on low-income customers is relevant.[160] He also emphasized that the Cooperative does not have data regarding the number and usage of its low-income customers and suggested it is inappropriate for SVEC not to have such data.[161] Nevertheless, based upon publicly available information from the Energy Information Administration ("EIA"), he concluded "increasing the residential fixed customer charge will disproportionately and adversely impact low-income customers, customers over 65 years old, and people of color."[162] He also relied upon an analysis performed by Appalachian Voices to support his conclusions regarding low-income impacts.[163] He explained further that because SVEC's proposal contemplates a fixed customer charge making up a high fraction of a residential customer's bill, such a charge will make improvements in self-generation "less efficacious and less economically attractive" for low-income customers.[164]

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[152] *Id.* at 7.
[153] *Id.* at 8.
[154] *Id.* at 9-10.
[155] *Id.* at 10-11.
[156] *Id.* at 12.
[157] *Id.* According to Mr. Rábago, the Cooperative's proposed demand charge based on peak demand and changing its declining block variable distribution chart to a flat and significantly lower rate "compounds the anti-efficiency and anti-distributed generation impacts of the proposed fixed customer charge." *Id.* at 13.
[158] *Id.*
[159] *Id.* at 14.
[160] *Id.*
[161] *Id.* at 15-16, 21.
[162] *Id.* at 16. *See also id.* at 17-18.
[163] *Id.* at 19-21.
[164] *Id.* at 21.

Mr. Rábago criticized the methodology used by the Cooperative in formulating its proposed customer charges.[165] Among other things, he maintained customer charges are not mandated by statute and concluded that, when such charges are employed, they should be limited to the recovery of actual costs.[166] He cited *Bonbright* as support for this conclusion. He also emphasized that the correct classification of costs is important when formulating a fixed customer charge.[167]

It was Mr. Rábago's understanding SVEC did not evaluate the option of recovering $4.8 million in revenue through a variable distribution charge rather than the fixed customer charge.[168] Furthermore, rather than supporting the Cooperative's proposed increase to its fixed customer charge (above $25 per month) as a means of achieving a revenue increase, Mr. Rábago recommended that the increase be allocated to demand or energy functions to preserve appropriate price signals.[169] He also evaluated three potential options for allocating the proposed revenue recovery (including both an increase in the fixed customer charge and an increase in the residential demand charge).[170] In the absence of a bill frequency and demand elasticity analysis, which he believes should have been performed by SVEC, Mr. Rábago recommended allocation of the Cooperative's proposed revenue increase to summer residential usage greater than 800 kWh per month and to all non-summer usage.[171]

Mr. Rábago next discussed the implications of a volumetric rate on usage.[172] Although he acknowledged not all customers change their energy usage in response to price signals, he maintained that "studies show near- and long-term consumption changes will result from volumetric price changes for electricity."[173] He disagreed with SVEC's position that the impacts of its proposed rate design changes on usage are irrelevant and, instead, opined that rates should encourage the efficient use of electricity.[174] Similarly, he suggested customer conservation prompted by volumetric rates would reduce long-term wholesale supply and infrastructure costs associated with electric service and maintained the Cooperative is aware of such impacts.[175] In addition, using information from EIA and National Renewable Energy Laboratory studies, he calculated expected increases in efficiency associated with a 5.9% increase in volumetric rates (suggesting a reduction of consumption of approximately 1.2% in the near term (3 years) and a reduction of between 1.9% and 3.0% over the long term (30 years)).[176] In contrast, he estimated

[165] *Id.* at 22-26.
[166] *Id.* at 22-23. Mr. Rábago cited James C. Bonbright, et al., *Principles of Public Utility Rates* 347-49 (1961) ("*Bonbright*").
[167] Ex. 10, at 23-24.
[168] *Id.* at 24.
[169] *Id.* at 24-26.
[170] *Id.* at 25.
[171] *Id.* at 25-26. Specifically, Mr. Rábago recommended the second option described on page 25 of his prefiled testimony "until the Coop[erative] develops better data and understanding of its members and how they use electricity." *Id.* at 26.
[172] *Id.* at 26-32.
[173] *Id.* at 27.
[174] *Id.* at 27-28. Mr. Rábago's understanding of SVEC's position as to rate impacts was based on a discovery response of the Cooperative. *Id.* at 27, n.38.
[175] *Id.* at 28-29.
[176] *Id.* at 30-31.

a residential consumption increase of approximately 1.2% in the near term (3 years) and a consumption increase between 1.9% to 3.0% over the long term (30 years) if the lower volumetric charge proposed by SVEC is adopted.[177] Given his assessment regarding volumetric rates, Mr. Rábago opined that the Commission should require the Cooperative to conduct an elasticity study of its customer base's demand before authorizing SVEC to increase the fixed customer charge or modify its volumetric distribution charges.[178]

Mr. Rábago also detailed his assessment of the negative impacts on energy efficiency and distributed energy resources ("DER") resulting from the Cooperative's proposal.[179] Among other things, he asserted that "each [kWh] saved by energy investments is worth less when the volumetric rate is suppressed by loading costs into the fixed customer charge."[180] He also provided an illustration of this concept based upon lightbulb replacements.[181] Furthermore, he disagreed with SVEC's position that the impacts of its proposed rate design changes on the economics of energy efficiency and DER investments are irrelevant.[182]

Mr. Rábago also maintained that the Cooperative's fixed customer charge increase proposal is contrary to fiscal discipline.[183] Among other things, he contended that the Cooperative's proposal encourages overspending and economic waste "while escaping any financial consequence in revenues collected from members."[184] He also noted that SVEC proposes to increase average annual spending from 2022 to 2024 to $48.9 million per year – an amount that is 66% higher than the average level of spending from 2016 through 2020.[185]

In addition, Mr. Rábago described what he believes to be flaws in the Cooperative's COS and rate design methodologies.[186] By way of summary, he believes SVEC over-allocated costs to the customer cost allocation and improperly relied on the minimum system and minimum intercept methods.[187] He provided an overview of the Cooperative's use of its COS study to build its customer charge and emphasized the importance of properly classifying costs to customer, demand, or commodity energy cost categories.[188] Among other things, he maintained that SVEC should adopt a definition of customer costs linked to the number of customers rather than power consumption and limited to costs that are directly caused by connecting customers to the grid.[189] He also criticized the Cooperative for improperly classifying a number of costs

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[177] *Id.* at 31-32.
[178] *Id.* at 32.
[179] *Id.* at 32-34.
[180] *Id.* at 33.
[181] *Id.*
[182] *Id.* at 34. Mr. Rábago's understanding of SVEC's position as to energy efficiency and DER investments is based on a discovery response of the Cooperative. *Id.* at 34, n.48.
[183] *Id.* at 34-35.
[184] *Id.* at 35.
[185] *Id.*
[186] *Id.* at 35-59.
[187] *Id.* at 35.
[188] *Id.* at 35-39. Mr. Rábago also disputed the Cooperative's reliance upon the NARUC Cost Allocation Manual and prior Commission cases as support for the reasonableness of its COS and customer charge methods. *Id.* at 39.
[189] *Id.* at 40-41.

driven by demand and energy as customer costs and for using the direct assignment, minimum system, and minimum intercept methods to predetermine the outcome that SVEC seeks.[190]

Regarding the Cooperative's direct assignment of costs for services and meters, Mr. Rábago maintained that SVEC overinflated the customer costs associated with AMI (given the diverse functions of such meters) and recommended that 50% of the meter-related costs in SVEC's proposal be removed.[191] He also opined that its unreasonable to assign all customer service and billing costs to the customer cost category.[192] Similarly, he asserted that the Cooperative unreasonably classified all advanced functionality costs (such as those associated with demand management and DER) to the customer cost category.[193] He recommended that SVEC be required to develop a more granular cost tracking system to assist with more accurate cost classification.[194]

Regarding the Cooperative's use of the minimum system and minimum intercept methods for classifying a portion of the costs for poles, overhead wires, underground conduit, underground wires, line transformers, capacitors, and voltage regulators as customer costs, Mr. Rábago denied that such costs (absent non-recovered line extension costs associated with individual residential members) have been properly classified.[195] He also maintained that the Cooperative's approach is fundamentally flawed because it relies upon hypothetical infrastructure costs rather than actual costs.[196] He described the minimum system and minimum intercept methods used by SVEC (relating the minimum system that would be required to serve the Cooperative's customers even if no energy were used) and asserted that such methods are subjective and improperly result in higher customer charges.[197] He also highlighted *Bonbright's* criticisms of the minimum system approach.[198] Similarly, he highlighted the Regulatory Assistance Project ("RAP") Cost Allocation Manual's proposed rejection of the minimum system and minimum intercept methods and noted that the use of such methods is not a common practice in the majority of states.[199] As opposed to the minimum system and minimum intercept methods, Mr. Rábago asserted that SVEC should use the basic customer method for determining customer-related costs.[200] He also opined that distribution costs properly allocated to residential customers should be recovered through the volumetric delivery charge.[201] Moreover, he maintained that the Commission should gradually reduce the fixed residential customer charge to $15 per month, exclude costs associated with the primary system and transformers from the

[190] *Id.* at 41-42.
[191] *Id.* at 42-44.
[192] *Id.* at 44.
[193] *Id.* at 45.
[194] *Id.*
[195] *Id.* at 45-46.
[196] *Id.* at 46.
[197] *Id.* at 46-47.
[198] *Id.* at 47-49.
[199] *Id.* at 49-55.
[200] *Id.* at 55. Mr. Rábago also denied that any credible economic policy supports the adoption of rate structures with high fixed charge components. *Id.* at 55-56.
[201] *Id.* at 56-57.

customer cost classification category, and limit to 50% the customer cost classification for costs associated with meters, billing and customer service as customer costs.[202]

In the final section of his prefiled testimony, Mr. Rábago addressed the Cooperative's residential demand charge proposal.[203] He noted that SVEC proposes the introduction of a residential demand charge in the amount of $0.10 per kW based on the maximum demand of the member and intends to modify such charge going forward.[204] He maintained such charge is not cost-based because it is based on the member's peak demand regardless of when it occurs and because SVEC has no means of ascertaining whether a member's demand actually causes costs or, instead, "adds valuable cost-reducing load diversity."[205] He also contended that the proposed residential demand charge is unlikely to reduce member or Cooperative costs and characterized it as "nothing more" than a $1 monthly fixed customer charge.[206] Furthermore, it was his understanding that when deciding to propose the demand charge increase, SVEC's management did not consider elasticity of demand, impact on low-income, elderly and minority customers, or impacts on energy efficiency, distributed generation, and coincident and non-coincident peaks.[207] In addition, he understood the Cooperative's management did not educate its members on the charge, did not solicit democratic member input, and did not properly consider academic and industry studies when deciding to pursue the demand charge increase.[208] Relying on professional literature, Mr. Rábago opined that a demand charge does not constitute a reasonable rate design for residential customers.[209] Among other things, he maintained such a charge (even if better designed) is unlikely to encourage residential members to reduce their system costs by changing the level and timing of their demand.[210] Under the circumstances, he recommended that the Commission deny SVEC's request for the approval of its demand charge proposal.[211]

When providing surrebuttal at the hearing, Mr. Rábago questioned Staff's acceptance of the minimum system method for cost allocation given the Commonwealth's Clean Energy policy codified in § 45.2-1706.1 of the Code.[212] He also believes Staff's decision not to oppose the proposed demand charge is unreasonable because, in his assessment, such charge is "not ready for prime time" and because customer education is not guaranteed.[213] Similarly, he opined that Staff's decision not to take a position on the fixed customer charge was unreasonable because such proposal is subject to Commission review.[214] Furthermore, he suggested Staff should not

[202] *Id.* at 57-58. Mr. Rábago also recommended the reduction of the existing fixed customer charge by $5 a year until it reaches $15 per customer per month. *Id.* at 58.
[203] *Id.* at 59-66.
[204] *Id.* at 59.
[205] *Id.* at 59-60.
[206] *Id.* at 60-61.
[207] *Id.* at 61-62.
[208] *Id.* at 62.
[209] *Id.* at 63-66.
[210] *Id.* at 65-66.
[211] *Id.* at 66.
[212] Tr. at 125.
[213] *Id.* at 127-28.
[214] *Id.* at 128-29.

have accepted the Cooperative's insufficient discovery responses relative to environmental justice concerns.[215]

Mr. Rábago believes, consistent with his understanding of general governance and regulatory oversight principles applicable to cooperatives, that SVEC's members should have been provided with information regarding the Cooperative's current rate proposal and allowed to participate in the decision to pursue such proposal before the Application was filed.[216] Furthermore, he disagrees with Mr. Gaines' suggestion in prefiled rebuttal testimony that SVEC's proposal will promote efficiency.[217] Similarly, he disagrees with Mr. Gaines' assertion that the 1992 National Association of Regulatory Utility Commissioners ("NARUC") manual supports the minimum systems cost allocation method.[218] Instead, he maintained the 1992 NARUC Manual merely discusses the minimum systems method.[219] He further maintained that "modern thinking" no longer supports the minimum systems method.[220] In addition, he disputed the Cooperative's suggestion that Commission precedent supports the cost allocation method used by Mr. Gaines.[221] Moreover, given his assessment that the increased fixed charge encourages waste, Mr. Rábago found SVEC's assertion that the reduction of its volumetric rate mitigates or rebalances the impacts of the increased fixed cost to be misleading.[222] He also maintained SVEC has proposed an "intentionally ineffective" demand charge and, instead, continues to believe such charge constitutes a "Trojan horse rate" because customers cannot respond to it through their behavior.[223]

When questioned by Staff, Mr. Rábago acknowledged § 45.2-1706.1 of the Code did not become effective until October 1, 2021, after the Application was filed.[224] He also acknowledged that other Virginia statutory requirements, including those pertaining to environmental justice, do not specifically address Staff's obligations in Commission cases and clarified that he did not take a position regarding Staff's legal requirements.[225]

During cross-examination by SVEC, Mr. Rábago agreed that he has significant experience testifying on behalf of environmental interests throughout many jurisdictions.[226] He acknowledged relying upon the same residential usage study (referenced on page 17 of his prefiled testimony) in several cases.[227] He also discussed the residential usage data that he analyzed for various other jurisdictions and compared it to the Virginia information he considered in this case.[228] Among other things, he acknowledged that the Virginia data he

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[215] *Id.*at 129.
[216] *Id.* at 133-35.
[217] *Id.* at 135-36.
[218] *Id.* at 136.
[219] *Id.*
[220] *Id.*
[221] *Id.* at 137.
[222] *Id.* at 137-38.
[223] *Id.* at 138-42.
[224] *Id.* at 144.
[225] *Id.* at 144-47.
[226] *Id.* at 148-49.
[227] *Id.* at 152.
[228] *Id.* at 153-62.

referenced in his prefiled testimony showed increases in electricity usage corresponding to increases in median incomes until the median income level reached approximately $75,000 – with electricity usage decreasing for incomes in the range of $75,000 to $100,000 but with usage increasing again when the median income exceeded $100,000.[229] Mr. Rábago also agreed as a matter of general policy that state utility commissions should consider their prior ratemaking decisions when considering matters before them.[230] Furthermore, he acknowledged several typographical errors in his prefiled testimony.[231]

Regarding his suggestion that the amounts of fixed customer charges assessed by neighboring utilities or cooperatives could provide a signal to SVEC as to the possible excessiveness of its BCC, Mr. Rábago acknowledged not knowing the name of one of the electric cooperatives neighboring SVEC and shown in Figure KRR-1 on page 11 of his prefiled testimony. He also was unaware that such entity, the Central Virginia Electric Cooperative, has a fixed customer charge of $31.75.[232] Furthermore, he explained his interpretation of Mr. Rogers' prefiled direct testimony as reflecting a lack of education being provided to the Board of Directors concerning the proposed demand charge.[233] He also identified an exhibit reflecting the energy burden analysis of Appalachian Voices referenced in footnote 30 of his prefiled testimony.[234]

Staff

Staff presented the testimonies of **Madhu S. Mangalam**, a Senior Utility Specialist II in the Commission's Division of Utility Accounting and Finance ("UAF"); **Edward Kaufman**, a Principal Utility Specialist in UAF; and **Kelli B. Gravely** a Principal Utilities Analyst in the Commission's Division of Public Utility Regulation ("PUR").

Ms. Mangalam addressed Staff's review of the Cooperative's revenue increase request; presented Staff's Rate Year analysis, including Staff's adjustments to revenue, and O&M expense and rate base; and Staff's environmental justice inquiries.[235] She also provided an overview of the Application and introduced Staff's witnesses.[236]

According to Ms. Mangalam, Staff's Rate Year analysis reflects a TIER of 2.44x based upon SVEC's requested increase of $5,934,337.[237] Because such TIER falls within Staff witness Kaufman's acceptable TIER range assessment of 2.00 to 2.50x, she represented that Staff does

[229] *Id.* at 159.
[230] *Id.* at 162-63.
[231] *Id.* at 164-70. *See also* Ex. 12 (redlined version of Mr. Rábago's prefiled testimony correcting various typographical errors).
[232] Tr. at 173-76.
[233] *Id.* at 177-81.
[234] *Id.* at 181-83. *See also* Ex. 11.
[235] Exs. 13 and 13C, at 3. Although Ms. Mangalam presented both a public and confidential version of her prefiled testimony (with confidential information included in her attachments), only public information is summarized herein.
[236] *Id.* at 2-4.
[237] *Id.* at 4.

not oppose the Cooperative's requested rate increase.[238] In addition, she explained that the primary differences between the Rate Year analysis of Staff and SVEC are based upon updated actual information through March 31, 2021, impacting payroll expense, major storm damage expense, right of way ("ROW") clearing expense, and billing determinants.[239] She also provided the following table specifying the differences between Staff's and the Cooperative's Rate Year analysis adjustments:[240]

Description	Adjustment Difference
Revenue	($631,746)
Major Storm Damage Expense	($653,383)
Payroll, Payroll Tax, and Benefits Expense	($592,562)
Property Tax Expense	($123,350)
Depreciation Expense	$99,762
ROW Clearing Expense	$78,514
Other Various O&M Expenses	($1,822)
Other Income and Expenses	$153,610

Among other things, Ms. Mangalam explained that Staff used the same methodology as SVEC when formulating its adjustment for rate base items but utilized updated information as of March 31, 2021, including a PCA deferral difference of $1.6 million, thereby resulting in a rate base adjustment that was $2,409,869 lower than the Cooperative's.[241] Furthermore, she testified that Staff's calculation of base rate distribution revenues was $631,746 lower that SVEC's calculation.[242]

Ms. Mangalam next addressed environmental justice. She testified that Staff propounded discovery to SVEC relative to environmental justice issues and in accordance with HB 704 and SB 406 from the Virginia General Assembly's 2020 session.[243] She indicated that the Cooperative objected to such discovery, claiming it was irrelevant.[244]

Mr. Kaufman calculated Staff's recommended level of interest expense to be utilized in determining an appropriate revenue increase for SVEC. Specifically, he calculated a Rate Year level of interest expense of $10,449,280, exceeding the Cooperative's Rate Year interest expense calculation by $214,226 (on a jurisdictional basis).[245]

Mr. Kaufman explained the Commission's consideration of the Cooperative's actual and MTIER and equity ratio when determining the appropriate level of a cooperative's income.[246]

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[238] *Id.* at 4-5.

[239] *Id.* at 5-13.

[240] *Id.* at 7. Ms. Mangalam also summarized Staff's basis for each of these adjustments. *Id.* at 8-14.

[241] *Id.* at 13-14.

[242] *Id.* at 8.

[243] *Id.* at 14.

[244] *Id.* at 14-15.

[245] Ex. 14, at 1-3.

[246] *Id.* at 5.

According to Mr. Kaufman, Staff also believes a cooperative's DSCs should be considered when determining its appropriate level of earnings.[247] Furthermore, he compared SVEC's three year TIER, DSC and equity ratio history to the history of other Virginia cooperatives from 2007 through 2020. Although SVEC's equity ratios were typically lower than the Virginia average, its TIERs and DSCs were generally higher than the Virginia average.[248] In addition, he discussed the RUS minimum thresholds required for cooperatives to remain in good credit standing with its lenders and concluded that an average Virginia electric cooperative requires a TIER within the range of 2.00 to 2.50x.[249] Similarly, based on data specific to SVEC, Mr. Kaufman ultimately concluded that a TIER range of 2.00 to 2.50x is reasonable for the Cooperative.[250]

Mr. Kaufman next discussed Staff's calculation of SVEC's generation and transmission ("G&T") capital credits.[251] He testified that the Cooperative has a Rate Year G&T capital credit average of $2,242,880 and Test Year G&T capital credits of $3,008,470, thereby producing a Cooperative-wide adjustment of ($765,590) and a jurisdictional adjustment of ($738,160).[252]

Ms. Gravely analyzed SVEC's adjusted class COS study, revenue apportionment, rate design, and proposed tariff changes.[253] She also provided an overview of SVEC's operations, base rate history, and current Application.[254] Among other things, she explained that the Cooperative proposes to adjust the PSS rates of each rate class to address class parity;[255] seeks to rename certain existing tariffs;[256] proposes to withdraw its Seasonal Residential Schedule S-7 and transfer associated customers to Residential Schedule A-12;[257]seeks approval to introduce seasonal price differentials for use in calculating the electric supply service portions of proposed rate schedules;[258] proposes the addition of Schedule AS-1 to pass through the costs of purchasing power from an alternative supplier to ODEC;[259] and seeks to introduce a new community solar subscription service rider, Schedule SSR-1.[260]

According to Ms. Gravely, a COS study provides a means of allocating costs to different service classifications based upon cost causation.[261] However, she also recognized there is no one scientifically correct method for allocating costs.[262] She described SVEC's adjusted class

[247] *Id.*
[248] *Id.* at 6. As further explained by Mr. Kaufman, even when the TIER history of Northern Virginia Electric Cooperative ("NOVEC") is removed from such comparative analysis, SVEC's TIER remains above the Virginia average for every year except 2020. *Id.* He explained that NOVEC has a particularly high TIER history. *Id.*
[249] *Id.* at 7-9.
[250] *Id.* at 9.
[251] *Id.*
[252] *Id.*
[253] Ex. 15, at 1.
[254] *Id.* at 2-5.
[255] *Id.* at 3-4.
[256] *Id.* at 4.
[257] *Id.*
[258] *Id.* at 4-5.
[259] *Id.* at 5.
[260] *Id.*
[261] *Id.* at 5-6.
[262] *Id.*

COS study included in Schedule 7 and concluded it "reasonably approximates the costs of serving the various rate classes."[263] She also summarized the results of the Cooperative's adjusted COS study and noted that such study results in positive RORs, under current rates, for all customer classes except for the Church Service Schedule.[264]

Ms. Gravely identified the following criteria, from *Bonbright,* that Staff considered in assessing the appropriate revenue apportionment and rate design:[265]

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

Of these criteria, Staff focused on the third (effectiveness in yielding total revenue requirements) and the fourth (rate stability and predictability) in its review of the Cooperative's Application.[266]

Regarding revenue apportionment, Ms. Gravely noted that the Cooperative proposes to allocate the highest percentage increases to the Church Service class (which currently has a negative ROR) at 9.83%, followed by the Residential Service class at 3.75% and the Coincident Peak Service class at 3.45%.[267] She also noted that SVEC proposes only minimal increases to the General Service and Large Power Service classes.[268] In addition, she noted that, with the exception of the Seasonal Residential Service class, which SVEC proposes to eliminate, SVEC's proposed revenue apportionment moves all of the classes closer to parity.[269] She ultimately concluded the Cooperative's proposed revenue apportionment does not appear unreasonable based upon its COS study.[270] Furthermore, should the Commission approve a lower revenue increase than the amount requested by SVEC, Ms. Gravely recommended apportionment of such increase consistent with the Cooperative's proposed revenue apportionment.[271] Similarly, she

[263] *Id.* at 6-8.
[264] *Id.* at 9.
[265] *Id.* at 9-10.
[266] *Id.* at 10.
[267] *Id.* at 11.
[268] *Id.*
[269] *Id.* at 11-12. Ms. Gravely also provided a chart summarizing the RORs and relative return indices resulting from the Cooperative's proposed revenue apportionment. *Id.* at 12.
[270] *Id.*
[271] *Id.* at 12-13.

recommended that final rates be designed consistent with further accounting adjustments that could be recommended by Staff.[272]

Ms. Gravely next explained that SVEC proposed changes to Schedule PCA-1. Among other things, she testified that the Cooperative proposes to adjust PCA-1 PSS's base rate to $0.06351 per kWh to reflect the Rate Year level of PCA revenues.[273] She also noted that the Cooperative proposes at PCA factor of $0.000000654629 per kWh to address a small difference between base PSS revenue and purchase power expense resulting from rounding.[274] In addition, she recognized SVEC's proposals to update its third-party purchase power agreement formula and to remove the non-purchased power component of PSS from over- and under-recovery calculations.[275] According to Ms. Gravely, Staff does not oppose the Cooperative's proposed changes to Schedule PCA-1 rates.[276]

Regarding rate design, Ms. Gravely noted that SVEC proposes to introduce higher seasonal power supply prices for June through September and add a demand component to the Residential and Church Service Schedules "to better reflect the effects of summer load on purchased power expense."[277] She also indicated that the Cooperative seeks to add a demand component to the Residential and Church Service Schedules based upon its assertion that demand charges constitute a more cost-based approach for the recovery of demand costs than energy consumption charges.[278] She provided a detailed description of the Cooperative's proposed Residential Service class rate design changes, including the initial addition of a small demand charge (which Staff does not oppose), the adjustment of PSS base rates to roll in the PCA and including a seasonal rate component.[279] Among other things, she explained that SVEC's proposed residential rate design change increases summer PSS rates over 800 kWh and consumer charges (by $5.00 per single-phase service customer and $9.35 per multi-phase service customer).[280] Furthermore, she testified that Staff does not oppose the Cooperative's proposed revisions to the Schedule A-12 (Residential Service) with the exception of proposed increases to consumer charges.[281] Moreover, she acknowledged that the Commission has previously approved seasonal rate differentials for cooperative customers.[282]

Ms. Gravely explained that the Cooperative proposed consumer charges of $30.00 for single-phase customers and $37.50 for multi-phase customers. Although Staff does not take a direct position regarding the proposed consumer charge for residential customers, Ms. Gravely noted that SVEC's proposal is higher than the Virginia cooperative average.[283] She also noted

[272] *Id.* at 13.
[273] *Id.*
[274] *Id.*
[275] *Id.*
[276] *Id.* at 14.
[277] *Id.*
[278] *Id.*
[279] *Id.* at 15-17.
[280] *Id.* at 16.
[281] *Id.* at 16-17.
[282] *Id.* at 17.
[283] *Id.* at 17-18.

that consumer charges for cooperative customers are generally higher than those of investor owned utilities as a result of § 56-585.3 of the Code.[284]

Ms. Gravely also provided a detailed residential bill analysis summarizing the impacts of the Cooperative's proposed rate design changes for the Residential Service class.[285] Among other things, she indicated that if the Cooperative's proposal is approved, a typical residential customer (using 1,177 kWh a month) would experience a monthly increase of $0.62 during non-summer months, a monthly increase of $10.58 during the summer months, and an annualized monthly bill increase of $3.94 with a demand of 9.84 kW.[286]

Ms. Gravely next discussed SVEC's proposal to withdraw its seasonal Residential Schedule S-7 and analyzed the billing impacts of such proposal.[287] She testified that Staff does not oppose the Cooperative's proposed withdrawal of Schedule S-7.[288]

Like she did for the Residential Service class, Ms. Gravely described SVEC's proposed rate design for the Church Service class linking the addition of a demand charge based on a customer's maximum kW delivered each month and an incremental off-peak demand charge.[289] She summarized the Cooperative's present and proposed rates for the Church Service class and noted that SVEC proposes a single-phase customer charge of $30.00 and a multi-phase consumer charge of $37.50 for Church Service customers.[290] In addition, she provided a chart showing the impact of the Cooperative's proposed Church Service rate design.[291] According to Ms. Gravely, with the exception of consumer charges, Staff does not oppose SVEC's proposed rate design for the Church Service class.[292] She testified that Staff takes no position regarding the proposed Church Service consumer charges.[293]

Ms. Gravely next described SVEC's proposed rate design for the General Service class including a proposed adjustment to power supply charges, inclusion of a higher Summer PSS rate, and an increase to the existing demand charge.[294] She summarized the Cooperative's present and proposed rates for the General Service class and noted that SVEC proposes a single-phase customer charge of $30.00 and a multi-phase consumer charge of $37.50 for General Service customers.[295] In addition, she provided a chart showing the impact of the Cooperative's proposed General Service rate design.[296] According to Ms. Gravely, with the exception of consumer charges, Staff does not oppose SVEC's proposed rate design for the General Service

[284] *Id.* at 18.
[285] *Id.* at 19-21.
[286] *Id.* at 20-21.
[287] *Id.* at 21-23.
[288] *Id.* at 23.
[289] *Id.*
[290] *Id.* at 24.
[291] *Id.* at 24-25.
[292] *Id.* at 25.
[293] *Id.*
[294] *Id.* at 26.
[295] *Id.* at 27.
[296] *Id.* at 28.

class.[297] She testified that Staff takes no position regarding the proposed General Service consumer charges.[298]

Ms. Gravely also described SVEC's proposed rate design for the Large Power Service class including: (1) adjustments to PSS base rates to correct an imbalance between PSS revenue and Rate Year purchased power expense and to reflect ODEC's demand charge allocation methodology; (2) a seasonal adjustment to demand charges; and (3) a correction to the minimum charge definition.[299] She summarized the Cooperative's present and proposed rates for the Large Power Service class and noted that SVEC does not propose an increase to the consumer charge for Large Power Service customers.[300] She testified that Staff does not oppose the Cooperative's proposed changes for the Large Power Service class.[301]

Ms. Gravely next addressed SVEC's proposed rate design for its Coincident Peak Load Schedule, which she described as a closed schedule for load in excess of 100 kW of average billing demand.[302] She noted that the only proposed change for this schedule is the removal of the $0.00011 per kWh adder for the recovery of non-purchased power supply costs.[303] She summarized the Cooperative's present and proposed rates for the Coincident Peak Load Schedule and noted that SVEC does not propose an increase to the consumer charge for customers on such schedule.[304] In addition, she testified that Staff does not oppose the Cooperative's proposed changes for the Coincident Peak Load Schedule.[305]

The last rate design proposal addressed by Ms. Gravely relates to SVEC's Lighting Service Schedules. She explained the Cooperative's planned use of more energy efficient replacement light-emitting diode ("LED") lights for Schedule LED and intended retention of the MV (mercury vapor) and HPS (high-pressure sodium) Schedules until replaced by LED.[306] In addition, she discussed the Cooperative's proposed neutral rebalancing of PSS distribution rates for the MV and HPS Schedules. She noted that SVEC's proposed distribution rates for the LED Schedule are now equal to the comparable size HPS rates.[307] She testified that Staff does not oppose the Cooperative's proposed rate design for the Lighting Service Schedules.[308]

Ms. Gravely also addressed the additional changes proposed by SVEC in its Application, including its proposal to rename Schedule PC-4 to Schedule LCR-1 (Coincident Peak Load Control Rider), the addition of Schedules AS-1 and SSR-1 as new tariffs, proposed changes to its

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[297] *Id.* at 29.
[298] *Id.*
[299] *Id.*
[300] *Id.* at 30.
[301] *Id.*
[302] *Id.* at 31-32.
[303] *Id.* at 31.
[304] *Id.*
[305] *Id.* at 32.
[306] *Id.*
[307] *Id.*
[308] *Id.* at 33.

terms and conditions of service, and proposed reduction of facility charge rates for excess facilities.[309] She represented that Staff does not oppose such changes.[310]

At the conclusion of her prefiled testimony, Ms. Gravely summarized Staff's recommendations including Staff's lack of opposition to SVEC's proposed revenue apportionment and rate design with the exception of the proposed consumer charges for the Residential, Church, and General Service Schedules (in connection with which, Staff takes no position).[311] Regarding the Cooperative's proposed consumer charges, Staff recommended customer education as described in the Application.[312]

SVEC – Rebuttal

On rebuttal, SVEC again submitted the testimony of **Mr. Gaines** and **Mr. Rogers**.

Mr. Gaines responded to Staff's revenue calculations and rebutted SUN-VA's testimony regarding cost allocation, customer charges, and residential demand charges.[313]

Mr. Gaines emphasized that his suggestions concerning Staff's adjustments do not change SVEC's proposed rates or revenue requirement.[314] Nevertheless, he maintained that revenue-related accounting adjustments associated with SVEC's request should be correct and consistent.[315] In his assessment, Staff made the following errors in its analysis:

1. Overstated the Cooperative's distribution revenue increase by $760,259 and SVEC's total proposed revenue increase by $609,189, resulting in an overstatement of the TIER produced by the Cooperative's proposed rates;[316]
2. Failed to properly synchronize Rate Year PSS revenue with Rate Year purchased power expense;[317]
3. Made an incorrect adjustment of $760,259 as non-purchased power revenue instead of recognizing an adjustment to PSS base rate power cost in the amount of $608,819 (based upon Rate Year kWh sales volumes);[318]
4. Used a less precise methodology than SVEC when calculating Rate Year distribution revenues;[319] and
5. Failed to normalize distribution revenues from Schedules PC-5, CMV-2, HPS-2, and LED-2 for the 5% distribution increase effective January 1, 2020.[320]

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309 *Id.* at 33-37.
310 *Id.* at 37.
311 *Id.*
312 *Id.*
313 Ex. 16, at 1-2.
314 *Id.* at 2.
315 *Id.*
316 *Id.*
317 *Id.* at 2-3. *See also id.* at 5-6.
318 *Id.* at 3. *See also id.* at 7-8.
319 *Id. See also id.* at 10-12. SVEC also questioned the ability for rates to be verified in a compliance filing using the Rate Year billing determinants calculated by Staff. *Id.* at 3.
320 *Id. See also id.* at 10.

Mr. Gaines also recommended that the billing determinants and revenue calculations presented in the Application be used in the determination of Rate Year revenue, thereby resulting in a TIER of 2.41x when Staff's other adjustments are accepted.[321] He noted further that a TIER of 2.41x is less than the 2.44x TIER believed by Staff to be reasonable.[322]

Regarding the issues raised by SUN-VA witness Rábago, Mr. Gaines:

1. Maintained SVEC's proposed BCC and demand charge are supported by COS and sound ratemaking principles;[323]
2. Defended SVEC's use of the minimum intercept and minimum size cost classification methods and noted that such methods have been accepted by the Commission for electric cooperative COS as support for BCCs;[324]
3. Defended SVEC's classification of 50% of metering costs, customer accounts expense, and customer service expense as demand or energy related;[325]
4. Disputed Mr. Rábago's conclusion that SVEC's proposed BCC and demand charge, on average, impose "extreme burdens on low-use and low-income customers;"[326]
5. Denied that SVEC's proposed rates are complex and punitive and asserted such rates include incentives for customers to control their electricity costs;[327]
6. Maintained SVEC's proposed rates were developed under a democratically controlled process given the election of the SVEC Board of Directors by SVEC's members;[328]
7. Denied that SVEC's proposed demand charge for Schedule A-13 constitutes a fixed customer charge and, instead, characterized such charge as a volumetric charge relating to a customer's demand for electricity;[329]
8. Asserted that demand charges are cost-justified as a means of recovering demand costs and emphasized that SVEC's proposed demand charge is designed for minimal initial impact with the goal of gradually introducing the concept of demand billing to SVEC's members;[330]

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[321] *Id.* at 3. *See also id.* at 11-12.
[322] *Id.* at 3. *See also id.* at 12.
[323] *Id.* at 13, 16-17.
[324] *Id.* at 13, 17-19. Similarly, Mr. Gaines noted that the minimum-intercept and minimum-size methodologies are commonly used by electric cooperatives in COS studies and for setting rates. *Id.* at 18.
[325] *Id.* at 13, 19-20. Mr. Gaines also disputed Mr. Rábago's recommendation that the BCC exclude costs associated with the primary distribution system and transformers and noted the Kentucky Public Service Commission's preference for using the zero-intercept method to classify a portion of such costs as customer-related. *Id.* at 18-19. Similarly, he disagreed with Mr. Rábago's suggestion that only 50% of customer billing and customer services expenses should be treated as customer related and noted that Mr. Rábago offered no supporting analysis to support this conclusion. *Id.* at 19-22.
[326] *Id.* at 13, 22-25. Mr. Gaines also maintained that SVEC's proposed BCC is in line with the fixed monthly charges of other Virginia electric cooperatives. *Id.* at 25-26.
[327] *Id.* at 13, 26-28, 31.
[328] *Id.* at 13-14.
[329] *Id.* at 14, 33-34.
[330] *Id.* at 14, 33-36. Mr. Gaines also explained that SVEC's demand charge proposal does not relate to the PSS rate and has not been proposed to address ODEC and Morgan Stanley demand costs. *Id.* at 36.

9. Disputed Mr. Rábago's characterization of the proposed demand charge as a "Trojan Horse" and emphasized SVEC's transparency in explaining the Board of Directors' plan to gradually rebalance revenue energy volumetric and demand volumetric charges over time in accordance with its statutory authority;[331] and
10. Maintained that alternative rate designs allowing for the recovery of more fixed costs through volumetric charges can result in cost shifts, and, because of this risk, supports rates recovering more fixed costs through the BCC.[332]

In response to what he perceived to be SUN-VA's general criticism of the Cooperative's objectives in its Application, Mr. Gaines maintained SVEC's proposal uses pricing structures to encourage energy efficiency "while minimizing the potential for revenue erosion that would result in cost shifting among and within customer classes."[333] He emphasized that SVEC's rates are unbundled with pricing for distribution delivery service being separate from pricing for PSS.[334] According to Mr. Gaines, the Cooperative's proposed design of PSS rates is intended to send more targeted price signals and promote greater efficiency in the use of electricity or, in the absence of greater efficiency, to recover costs of supply more equitably.[335] Moreover, he maintained that the increase of volumetric charges within the Cooperative's distribution rates "to promote conservation would be counter-productive for an electric cooperative as fixed cost recovery would be more dependent on kWh sales volume with greater potential for shifting cost recovery from one group of member owners to others."[336]

Regarding low-income customers, Mr. Gaines maintained that revenue neutral reductions in the BCC would only have relatively small impacts for low-income customers at average usage levels.[337] In addition, he utilized the income-level electricity usage data relied upon by Mr. Rábago to support his conclusion that the Cooperative's proposed residential rate changes favor customers who have usage levels believed by Mr. Rábago to be associated with lower income.[338] Among other things, he testified that the data shows customers with a monthly, average usage level of 940 kWh would experience a 1.84% bill increase associated with SVEC's proposal, as compared to an average residential customer bill increase of 3.75%.[339] Furthermore, he testified that the revenue neutral nature of the Cooperative's proposed $5.00 increase in its BCC combined with the corresponding decrease in the volumetric energy charge would result in a net bill increase of $1.00 for customers using 940 kWh monthly.[340] Similarly, he indicated that a reduction of the BCC by $5.00 would only result in a $1.00 monthly decrease to the bills of customers using 940 kWh.[341] Moreover, he noted that SVEC's proposed PSS rate for June

[331] *Id.* at 14, 30-31, 37. Mr. Gaines also asserted that customers will have the ability to reduce what they pay for demand through conservation or distributed generation if the Cooperative's proposal is approved and its ability to be maintained will be enhanced when TOU differentials can be added to the demand charge. *Id.* at 37.
[332] *Id.* at 14.
[333] *Id.* at 14-15.
[334] *Id.* at 15.
[335] *Id.*
[336] *Id.* at 16.
[337] *Id.* at 22.
[338] *Id.* at 22-24.
[339] *Id.* at 23.
[340] *Id.*
[341] *Id.* at 23-24.

through September would reduce the summer monthly bills of customers using 940 kWh by $6.62 per month.[342]

Mr. Gaines also maintained Mr. Rábago's contention that alternative rate designs do not produce a cost shift relative to other rate designs is only true in a static environment where consumption volumes are not changing -- unlike the circumstances facing SVEC.[343] Moreover, he emphasized the need for cooperatives to minimize the potential for revenue erosion associated with factors such as weather, conservation, or distributed generation.[344]

Mr. Gaines further asserted that the Cooperative's inclusion of volumetric pricing within its proposed residential rate provides a means for customers to manage their costs and recoup efficiency investments or distributed generation even with the BCC.[345] Specifically, he maintained that the combined, proposed rate for residential customers (including both the PSS rate and the distribution weighted average volumetric energy rate) of 9.443¢/kWh in the four summer months and 8.35¢/kWh in the remaining months is "avoidable by managing usage, investing in energy efficiency, or distributed generation."[346] He also asserted that an increase to the distribution volumetric rate would render fixed cost recovery more dependent upon energy sales because, among other things, electricity obtained from customer-owned distributed generation (including solar) does not impact fixed costs in the near term and long-term impacts from such generation is uncertain.[347] He also explained that the Cooperative's proposed volumetric energy charges account for 77% of the total average monthly residential bill.[348]

In the concluding portion of his prefiled rebuttal testimony, Mr. Gaines offered the following summary of his response to SUN-VA's assertions:[349]

> The Cooperative's proposed [BCCs] and demand charges are just and reasonable because they are based on established and accepted cost of service and ratemaking principles. As demonstrated, the apportionment of the revenue increase within the proposed residential rate design favors consumers with average usage typical of low-income customers. Revenue neutral changes in the [BCC] would not significantly impact the monthly bills of consumers with average usage typical of low-income consumers. In addition, both the [BCC] and the demand charge are designed to more fairly recover the Cooperative's fixed distribution costs while mitigating the potential adverse effects of revenue erosion from volumetric distribution energy influences like conservation or distributed generation. Subsidizing distributed generation and other types of conservation efforts through inflated volumetric distribution energy rates is not just and reasonable and could lead to cost shifting that would adversely affect other customers, including low-

[342] *Id.* at 24.
[343] *Id.* at 28-29.
[344] *Id.* at 29-30.
[345] *Id.* at 31.
[346] *Id.*
[347] *Id.* at 32.
[348] *Id.* at 33.
[349] *Id.* at 37-38.

income customers. Finally, seventy-seven percent (77%) of the average bill under the proposed residential rate is based on volumetric energy charges that are avoidable with conservation or distributed generation.

At the hearing, Mr. Gaines explained that he has been involved in cooperative ratemaking for 46 years.[350] He also confirmed that the methodologies and rate design strategies he used in this case are consistent with those that he has supported in other Virginia cooperative cases.[351] Furthermore, although he characterized SVEC's proposed demand charge as a new feature in residential rates, he emphasized that similar demand charges have been utilized by other cooperatives. He maintained that it will initially have a minimal impact on residential customers while at the same time allowing customers to become accustomed to it.[352] In addition, he maintained that the demand charge is volumetric and controllable and asserted that its inclusion in the Cooperative's rates will lead to rate structure improvements over time.[353] He further clarified that the long-term objective of the demand charge is to enable customers to avoid demand costs by moving their loads to off-peak times.[354]

During cross-examination by SUN-VA, Mr. Gaines confirmed his cost of service study and recommended rate design are consistent with the recommendations he has been making for a long time, even though the demand charge is a new feature.[355] He denied that the proposed demand charge is an experiment and believes its addition to residential rates is appropriate given the development of new technologies.[356] He acknowledged that the Cooperative will need to roll out the addition of smart meters to get benefits from time differentiated demand.[357] Furthermore, he believes it would be difficult to implement an even smaller demand charge design as some sort of pilot than what has been proposed by the Cooperative in this case – that is 10¢ per kW.[358]

Mr. Rogers responded to the observations of SUN-VA witness Rábago and discussed how SVEC is governed and decisions are made regarding the amendment of rates.[359] Among other things, he maintained that the Cooperative's Board of Directors made decisions relative to the Application after considering the best interests of SVEC's members.[360] He also testified that the Cooperative continues to educate its members regarding its proposed rate changes, including proposed changes to the consumer charge and residential demand charge, through oral (such as Tele-Town Hall events) and written communications (such as an FAQ guide in *Cooperative Living* magazine).[361] In addition, he described SVEC's planned future education outreach efforts.[362] Among other things, he maintained that implementation of a *de minimis* residential

[350] Tr. at 195.
[351] *Id.* at 195-96.
[352] *Id.* at 197-98.
[353] *Id.* at 198-99.
[354] *Id.* at 199.
[355] *Id.* at 200-01.
[356] *Id.* at 201.
[357] *Id.*
[358] *Id.* at 202.
[359] Ex. 17, at 1.
[360] *Id.* at 2.
[361] *Id.* at 2-3.
[362] *Id.* at 4-7.

demand charge will educate its members regarding the effects of a demand charge as the Cooperative deploys new metering technology.[363] Moreover, he denied that SVEC's proposal to implement a residential demand charge is in anyway dishonest and asserted that the Cooperative has been transparent regarding such proposal.[364]

During cross-examination by SUN-VA, Mr. Rogers confirmed SVEC does not currently have meters capable of supporting TOU demand charges.[365] However, he indicated that the Cooperative currently has meters capable of supporting a member demand charge by month.[366] He also maintained there are many distribution system benefits associated with demand charges at all levels.[367] Furthermore, he agreed that the Commission should apply principles of gradualism to SVEC's rate design proposals as a whole.[368]

On redirect, Mr. Rogers confirmed there are educational benefits associated with implementing the Cooperative's proposed demand charge.[369]

Partial Stipulation

In the proposed Partial Stipulation, the Stipulating Participants agreed to the following:[370]

1. The Cooperative's rates will be calculated using the Cooperative's billing determinants provided in its Application, which increases revenues by $5,325,148 and results in a TIER within the range of 2.00 to 2.50x found to be reasonable by Staff.

2. The Cooperative's class COS study reasonably approximates the cost of serving SVEC's rate classes and the Cooperative's revenue apportionment, as proposed in the Application, is reasonable and should be approved with no changes.

3. Staff and Frederick County take no position regarding SVEC's proposed BCCs for Residential, Church, and General Service.[371]

4. Although Frederick County takes no position regarding SVEC's proposed demand charge for Residential and Church Service customers, Staff and the Cooperative stipulate such demand charge is reasonable and should be approved.[372]

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[363] *Id.* at 5-6.
[364] *Id.* at 7.
[365] Tr. at 206.
[366] *Id.*
[367] *Id.* at 206-07.
[368] *Id.* at 207-08.
[369] *Id.* at 208-09.
[370] Ex. 9, at 2-3.
[371] When memorializing this provision in Paragraph 7 of the Partial Stipulation, the Stipulating Participants referenced current Schedule designations for these rate classes (Schedules A-12, C-12, and B-12, respectively). *Id.* at 2.
[372] When memorializing this provision in Paragraph 8 of the Partial Stipulation, the Stipulating Participants referenced SVEC's proposed updated Schedule designations for these rate classes (Schedules A-13, C-13, and B-13, respectively). *Id.* at 3.

5. The Cooperative's proposed seasonal PSS rates in Schedules A-13, C-13, B-13, and LP-13 are reasonable and should be approved.

6. The Cooperative's proposed decreases to excess facilities charge rates in its Terms and Conditions of Service are reasonable and should be approved as set forth in the Application with no changes.

7. The Cooperative's proposed Schedule SSR-1 is reasonable and should be approved as set forth in the Application with no changes.

8. The Cooperative's proposed Schedule AS-1 is reasonable and should be approved as set forth in the Application with no changes.

9. The Cooperative's proposal to withdraw its Schedule Seasonal S-7 should be approved as set forth in the Application without change.

Staff, SVEC, and Frederick County also agreed to admit the prefiled testimony of certain witnesses without cross-examination (relative to their prefiled testimony)[373] and to abide by standard contingencies if the Commission or Hearing Examiner does not accept the terms of the Partial Stipulation.[374]

DISCUSSION

Motion in Limine

In its Motion *in Limine*, SVEC asserted that portions of Mr. Rábago's testimony should be excluded from evidence in this case as hearsay lacking "probative effect."[375] Specifically, the Cooperative maintained the conclusions reached by Mr. Rábago based upon an "energy burden analysis" conducted by Appalachian Voices ("Appalachian Voices Report"), together with Mr. Rábago's descriptions of the Appalachian Voices Report's analysis in figures KRR-6, KRR-7, and KRR-8 in his prefiled testimony, should be stricken from the record of this case as unreliable hearsay because SUN-VA failed to provide source materials, methodology and data descriptions supporting the Appalachian Voices Report in response to SVEC's discovery requests.[376] Likewise, the Cooperative asserted that portions of Mr. Rábago's testimony referencing and relying upon a demand charge analysis of the Regulatory Assistance Project ("RAP Demand Report") should be stricken from the record as unreliable hearsay because the RAP Demand Report's author is not a witness in this case and because SVEC lacks the ability to inquire into the validity of such author's methodologies and assumptions.[377]

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373 However, the Stipulating Participants reserved the right to cross-examine certain witnesses regarding testimony provided at the hearing. *Id.* at 1-2.
374 *Id.* at Paragraphs (14)-(15).
375 Motion *in Limine* at 2 (citing Rule 190 of the Rules of Practice). The Cooperative also identified the specific portions of Mr. Rábago's testimony that it seeks to strike in Exhibits B and C attached to its Motion *in Limine*.
376 *Id.* at 3-4.
377 *Id.* at 4-5.

In opposition to the Motion *in Limine*, SUN-VA maintained SVEC erroneously relied upon evidentiary standards that do not apply in rate-setting cases such as this matter.[378] SUN-VA also contended the Commission recognizes a substantially low burden for the admission of evidence in legislative proceedings and noted:[379]

> Reports, studies, whitepapers, articles, and third-party data compilations similar to those cited by Mr. Rábago are routinely quoted, cited, and/or attached to direct testimony that is filed at the Commission in legislative proceedings. Such direct testimony is routinely admitted to the evidentiary record without objection.

Furthermore, SUN-VA asserted that the Virginia Rules of Evidence allow experts, such as Mr. Rábago, to offer testimony based upon facts, circumstances, and data made known to the expert before or during the relevant proceeding.[380] Moreover, SUN-VA maintained Mr. Rábago's reliance upon the RAP Demand Report was appropriate because the RAP Demand Report constitutes a "learned treatise."[381] Similarly, SUN-VA suggested Virginia's evidentiary rules, if they actually apply in this case, provide an exception to the hearsay rule relating to the energy burden information referenced and relied upon by Mr. Rábago because such information was compiled from United States Census Reports.[382] In addition, SUN-VA argued SVEC had the ability to challenge the validity and basis of Mr. Rábago's opinions and supporting assumptions through rebuttal testimony.[383] Lastly, given the "late date" that the Motion *in Limine* was filed and SUN-VA's interpretation of Commission precedent regarding the admission of hearsay evidence in "legislative rate-setting proceedings," SUN-VA claimed the Motion *in Limine* appeared to be "a tactic intended to distract SUN-VA from its preparation for the evidentiary hearing."[384]

In reply, SVEC contended the legislative nature of this proceeding does not support the admission of hearsay evidence lacking substantive probative effect, including the evidence that it seeks to strike.[385] According to the Cooperative, the testimony that it contests lacks substantive probative value because it relies upon "unverified outside studies, analyses, conclusions, and works performed by third parties who are not testifying in this proceeding."[386] SVEC also denied that Rule 2:803 (8) of the Virginia Rules of Evidence supports the admission of portions of Mr. Rábago's testimony wherein he relied upon an analysis performed by Appalachian Voices because such analysis was not performed by a public office or agency.[387] Likewise, the Cooperative disputed SUN-VA's suggestion that the RAP Demand Report referenced and relied upon by Mr. Rábago constitutes a "learned treatise" allowing for its consideration in this case in

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[378] SUN-VA MIL Response at 3-4.
[379] *Id.* at 4.
[380] *Id.* at 5 (citing Va. Rules of Evidence 2.703).
[381] *Id.* (citing Va. Rules of Evidence 2:706).
[382] *Id.* (citing Va. Rules of Evidence 2:803(8)).
[383] *Id.* at 6.
[384] *Id.*
[385] SVEC MIL Reply at 2-3.
[386] *Id.*
[387] *Id.* at 4.

accordance with Rule 2:706 of the Virginia Rules of Evidence.[388] Finally, SVEC disputed SUN-VA's suggestion that the Cooperative filed the Motion *in Limine* in an effort to detract from SUN-VA's hearing preparation.[389]

Having carefully reviewed the portions of Mr. Rábago's testimony sought to be struck from the record of this case by the Cooperative ("Challenged Testimony"), I agree with SVEC that the Challenged Testimony appears to be based, at least in part, on the analysis of others who did not offer testimony in this case and/or specific information not provided to SVEC in the course of discovery. Nevertheless, given Mr. Rábago's experience in the energy industry and associated ability to process the information included in the Challenged Testimony, together with the relationship of the Challenged Testimony to the issues in this case, I conclude the Challenged Testimony reaches the unique "substantive probative effect" threshold for admission in the context of this legislative proceeding as contemplated by Rule 190 of the Rules of Practice. In my assessment, the concerns raised by SVEC go to the overall weight that should be afforded to the Challenged Testimony and do not warrant its exclusion.[390] I note further that the Cooperative could have filed a motion to compel in response to its discovery requests, which could have been used when cross-examining Mr. Rábago or preparing rebuttal testimony, if it believed SUN-VA failed to provide adequate information, but SVEC elected not to do so. For these reasons, I recommend that the Commission deny the Motion *in Limine*.

Applicable Statutory Provisions

As reflected above, SVEC seeks approval of its proposed rate increase pursuant to §§ 56-231.33, 56-231.34, 56-236, 56-238, and 56-585.3 of the Code.

Section 56-231.33 of the Code discusses the legal standards to be applied to a cooperative's electric service and rates, stating:

> Regulated utility services offered by a cooperative shall be reasonably adequate, subject to the regulations of the Commission, as provided in § 56-231.34. The charge made by any such cooperative for any regulated utility service rendered or to be rendered, either directly or in connection therewith, shall be nondiscriminatory, reasonable and just, and every discriminatory, unjust or unreasonable charge for such regulated utility service is prohibited and declared unlawful. Reasonable and just charges for service within the meaning of this section shall be such charges as shall produce sufficient revenue to pay all legal and other necessary expenses incident to the operation of the system, and shall include but not be limited to maintenance cost, operating charges, interest charges on bonds or other obligations, to recover such stranded costs and transition costs as may be authorized in this title, to provide for the liquidation of bonds or other evidences of indebtedness, to provide adequate funds to be used as working capital, as well as reasonable reserves and funds for making replacements and also for the payment of any taxes that may be

[388] *Id.* at 5.
[389] *Id.* at 6.
[390] *See Virginia Bankers Association et al. v. Virginia Credit Union, Inc. et al.*, Case No. BFI-2019-00049, Hearing Examiner's Ruling (Oct. 19, 2021).

> assessed against the cooperative or its property, it being the intent and purpose hereof that such charges shall produce an income sufficient to maintain such cooperative property in a sound physical and financial condition to render adequate and efficient service and additional amounts that must be realized by the cooperative to meet the requirement of any rate covenant with respect to coverage of principal of and interest on its debt contained in any indenture, mortgage, or other contract with holders of its debt, provided that any such indenture, mortgage, or other contract must have been approved by the Commission pursuant to Chapter 3 (§ 56-55 *et seq.*) of this title. Any rate for regulated utility services that is too low to meet the foregoing requirements shall be unlawful.

Section 56-231.34 of the Code provides for Commission regulation of the utility services provided by cooperatives. The statute provides:

> The regulated utility services of a cooperative shall be subject to the jurisdiction of the Commission in the same manner and to the same extent as are regulated utility services provided by other persons under the laws of this Commonwealth. All other business activities of a cooperative and its affiliates shall be subject to the jurisdiction of the Commission to the extent provided by § 56-231.34:1 and any other applicable laws of the Commonwealth.

Section 56-236 of the Code provides in pertinent part:

> Unless the Commission determines otherwise, every public utility shall be required to file with the Commission and to keep open to public inspection schedules showing rates and charges, either for itself, or joint rates and charges between itself and any other public utility. Every public utility shall file with, and as a part of, such schedules, copies of all rules and regulations that in any manner affect the rates charged or to be charged.

Section 56-238 of the Code provides that the Commission may suspend any proposed rates, tolls, charges, rules, or regulations filed under § 56-236 of the Code and investigate the reasonableness or justice of such proposed rates, tolls, charges, rules and regulations. The statute provides:

> The Commission, either upon complaint or on its own motion, may suspend the enforcement of any or all of the proposed rates, tolls, charges, rules or regulations for schedules required to be filed under § 56-236 of any public utility, except an investor-owned electric public utility, for a period not exceeding 150 days . . . from the date of the filing . . . during which times the Commission shall investigate the reasonableness or justice of such proposed rates, tolls, charges, rules and regulations and thereupon fix and order substituted therefor such rates, tolls, charges, rules and regulations as shall be just and reasonable.

Lastly, § 56-585.3 of the Code provides for the regulation of a cooperative's rates after the termination of capped rates. Subsection A of the statute provides in pertinent part:

After the expiration or termination of capped rates, the rates, terms and conditions of distribution electric cooperatives subject to Article 1 (§ 56-231.15 *et seq.*) of Chapter 9.1 shall be regulated in accordance with the provisions of Chapters 9.1 (§ 56-231.15 *et seq.*) and 10 (§ 56-232 *et seq.*) as modified by the following provisions:

. . . .

4. Each cooperative may, without Commission approval or the requirement of any filing other than as provided in this subdivision, upon an affirmative resolution of its board of directors, make any adjustment to its rates reasonably calculated to collect any or all of the fixed costs of owning and operating its electric distribution system, including without limitation, such costs as are identified as customer-related costs in a cost of service study, through a new or modified fixed monthly charge, rather than through volumetric charges associated with the use of electric energy or demand, or to rebalance among any of the fixed monthly charge, distribution demand, and distribution energy; however, such adjustments shall be revenue neutral based on the cooperative's determination of the proper intra-class allocation of the revenues produced by its then current rates. If a rate class contains a supply demand charge, the cooperative may rebalance its rate for electricity supply service pursuant to this subdivision. The cooperative may elect, but is not required, to implement such adjustments through incremental changes over the course of up to three years. The cooperative shall file promptly revised tariffs reflecting any such adjustments with the Commission for informational purposes[.]

Arguments of the Case Participants

SUN-VA

SUN-VA contended SVEC's proposed increase to its BCC and the implementation of a residential demand charge are contrary to sound ratemaking principles and should not be approved.[391] Among other things, SUN-VA noted that the Cooperative seeks to recoup 90% of its proposed $5.3 million revenue requirement increase through its BCC.[392] SUN-VA maintained such a proposal harms customers using less electricity.[393] Furthermore, SUN-VA asserted that SVEC's demand charge proposal is premature because the Cooperative does not yet have meters capable of implementing time-differential billing.[394]

According to SUN-VA, the Cooperative's BCC violates principles of rate stability, consistency, and gradualism when considered in conjunction with SVEC's recent monthly

[391] SUN-VA Brief at 4.
[392] *Id.*
[393] *Id.* at 4, 11-12.
[394] *Id.* at 4-5, 14-15.

increase (from $13.76 to $25.00) to the BCC in January 2020.[395] Among other things, SUN-VA noted that the Commission applied the principle of gradualism when previously rejecting the level of an electric cooperative's fixed charge.[396] SUN-VA also argued the BCC increase is inconsistent with best utility practices because it is based on a hybrid minimum system/minimum intercept COS methodology that results in unreasonably high fixed customer charges.[397] Instead, SUN-VA maintained that the basic customer method should be used to assign fixed customer costs to SVEC's members, thereby limiting such costs to those associated with connecting customers to the grid and varying directly based upon the number of customers.[398] SUN-VA explained that the use of such methodology results in a BCC of $15 a month and recommended a gradual reduction of the Cooperative's existing BCC until it reaches $15 a month.[399]

SUN-VA further suggested that the Cooperative's BCC proposal reflects the Cooperative's mistaken view of energy efficiency and rooftop solar as costs rather than benefits.[400] Moreover, SUN-VA maintained SVEC's proposed BCC is regressive and contrary to Virginia's public policy because it discourages investment in energy efficiency and distributed generation.[401] SUN-VA characterized the fixed customer charge proposal as regressive because it forces lower-usage customers to pay higher energy costs.[402] SUN-VA also emphasized that the Cooperative made no effort to quantify the impact of the BCC proposal on low-income customers.[403] In addition, SUN-VA highlighted various Virginia statutory enactments which, in its view, reflect Virginia's public policy favoring energy efficiency, renewable energy, and distributed generation.[404] Among other things, although the Commonwealth Clean Energy Policy did not become effective until October 1, 2021 (after the Application was filed), SUN-VA argued that the Commission should consider such policy in this case as a demonstrated expansion of efficiency policies and objectives previously adopted by the General Assembly.[405]

Regarding the proposed demand charge, SUN-VA asserted that SVEC's proposal to charge customers $0.10 kW regardless of when maximum demand occurs is not rational or cost-based.[406] SUN-VA also highlighted the Cooperative's admission that the demand charge proposal is so small it will not change customer behavior.[407] According to SUN-VA, the demand charge proposal should be rejected until SVEC has metering equipment capable of registering on- and off-peak billing demand.[408]

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[395] *Id.* at 6-7.
[396] *Id.* at 7 (citing *Application of Northern Virginia Electric Cooperative, For an increase in electric rates,* Case No. PUE-2008-00076, 2009 S.C.C. Ann. Rep. 336.
[397] *Id.* at 7-11.
[398] *Id.* at 8-9.
[399] *Id.* at 9.
[400] *Id.* at 9-10.
[401] *Id.* at 11-14.
[402] *Id.* at 11.
[403] *Id.*
[404] *Id.* at 12-14.
[405] *Id.* at 13-14.
[406] *Id.* at 14-15.
[407] *Id.* at 15.
[408] *Id.*

Finally, SUN-VA asserted that the lack of a meaningful opportunity for the Cooperative's members to influence the Board's rate proposal decision increases the importance of the Commission's scrutiny of such proposal in this case.[409]

Frederick County

Because it believes the impact of the Cooperative's proposed BCC increase would fall most heavily upon those using the least amount of electricity, including low-income customers, Frederick County encouraged the Commission to modify SVEC's BCC proposal.[410] According to Frederick County, SVEC's proposed shift of revenue recovery from a volumetric to fixed rate mechanism will also provide customers with less ability to control their bills through their usage.[411] Furthermore, Frederick County suggested the Cooperative's proposed BCC will discourage customers from conserving their electricity usage.[412]

The Cooperative

According to SVEC, the Partial Stipulation is supported by the record and should be approved.[413] Among other things, the Cooperative emphasized that although SUN-VA was not a signatory on the Partial Stipulation, SUN-VA did not contest SVEC's proposed revenue requirement, the amount of which was agreed to by Staff, the Cooperative, and Frederick County.[414]

Regarding rate design, SVEC asserted that its proposed increase of the residential BCC and addition of a residential demand charge provide for an equitable recovery of costs balancing the interests of all members and reducing revenue erosion.[415] According to the Cooperative, the increase to the BCC is supported by its class COS study – the only COS study introduced as evidence in this case.[416] Moreover, SVEC emphasized that its class COS actually supported a monthly BCC of over $32 a month, thereby serving as evidence of the $30 charge's reasonableness.[417] According to SVEC, the record also demonstrates its proposed BCC is in line with fixed monthly residential charges recently approved by the Commission for other cooperatives.[418]

In addition to arguing that the BCC should be approved because it is cost-based, the Cooperative maintained the evidence shows its overall proposed rate design, including the implementation of seasonal PSS energy rates, will promote efficiency when considered as a

[409] *Id.* at 15-17.
[410] Frederick Brief at 1.
[411] *Id.*
[412] *Id.* at 1-2.
[413] SVEC Brief at 5-6.
[414] *Id.* at 5.
[415] *Id.* at 7-23.
[416] *Id.* at 8-9.
[417] *Id.* at 9.
[418] *Id.* at 16.

whole.[419] SVEC also emphasized that its classification of costs is based upon an established methodology that the Commission has previously accepted.[420] Furthermore, the Cooperative defended its use of the minimum intercept method to assign a certain level of customer-related costs to investments in line transformers and the primary distribution system.[421] In addition, SVEC disputed SUN-VA's suggestion that its use of a hybrid minimum-size and zero-intercept methodology is inconsistent with the Commonwealth Clean Energy Policy.[422]

In defense of its proposed introduction of a demand charge to the volumetric portion of Schedules A-13 and C-13 rates, the Cooperative first denied SUN-VA's suggestion that the demand charge constitutes another fixed charge.[423] SVEC emphasized that the demand charge will vary depending upon customer demand for electricity and maintained the insignificant impact of such charge on a member's monthly bill does not transform the demand charge into a fixed charge.[424] The Cooperative also highlighted portions of the record showing that the proposed demand charge is designed to recover costs varying with plant capacity and, based upon maximum demands on the system (and subsystem), "that the [Cooperative] must be prepared to meet in planning its construction program."[425] Moreover, SVEC emphasized its proposed introduction of a minimum monthly demand charge (without substantial bill impacts) as a means of providing customer education in preparation for the installation of advanced metering technology capable of measuring demand for both on- and off-peak periods and with the expectation that the Cooperative will gradually adjust the demand charge to be primarily based on a member's maximum demand during on-peak hours.[426] In addition, the Cooperative maintained it has been transparent regarding its intent to raise the demand charge and to provide associated customer education.[427] Furthermore, SVEC noted that the Commission has approved residential demand charges for other Virginia electric cooperatives.[428]

Finally, in the concluding section of its post-hearing brief, the Cooperative represented that it was amending its request for the implementation of its proposed rates effective for bills rendered to members on or January 1, 2022, as interim rates subject to refund.[429] Instead, SVEC indicated it would prefer to implement its rates effective for bills rendered to members on and after March 1, 2022, to avoid the possibility of member confusion and to provide more time for additional member education.[430]

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[419] *Id.* at 10-11, 14.
[420] *Id.* at 11-15.
[421] *Id.* at 12.
[422] *Id.* at 13-14. *See also id.* at 23-27 (explaining SVEC's position that the Commonwealth Clean Energy Policy does not apply to its rate proposal because it did not go into effect until after the Application was filed and because the General Assembly did not intend it to apply to the Commission's consideration of Virginia electric cooperative rates).
[423] *Id.* at 17-18.
[424] *Id.* at 18.
[425] *Id.* at 19 (citing *Bonbright* at 310).
[426] *Id.* at 20.
[427] *Id.* at 20-22.
[428] *Id.* at 22-23.
[429] *Id.* at 27.
[430] *Id.*

Staff

Staff urged the Commission to approve the Partial Stipulation as a means of striking "a careful balance between the Cooperative's need for a reasonable revenue requirement that allows SVEC the opportunity to cover its actual costs of service while maintaining a positive TIER, without unduly burdening customers."[431] Staff also disputed SUN-VA witness Rábago's suggestion that Staff's testimony conflicted with the Commonwealth Clean Energy Policy and emphasized that such policy was not yet in effect when Staff's testimony was prefiled.[432] Similarly, Staff denied Mr. Rábago's contention that Staff failed to appropriately consider Virginia's statutory environmental justice requirements when conducting its review of SVEC's proposal.[433]

Analysis

I first recognize that the majority of the provisions included in the Partial Stipulation are either supported, or not directly opposed, in this case. Specifically, there appears to be no opposition to, and/or evidence disputing, the following provisions of the Partial Stipulation: (1) a revenue increase of $5,325,148 is necessary for SVEC to achieve a reasonable TIER in the range of 2.00 to 2.50x and should be approved;[434] (2) SVEC's proposed revenue apportionment is reasonable and should be approved;[435] (3) the Cooperative's proposed demand charge for Schedule C-13 is reasonable and should be approved;[436] (4) SVEC's proposed seasonal PSS rates in Schedules A-13, C-13, B-13, and LP-13 are reasonable and should be approved;[437] (5) the proposed decreases to facilities charge rates in SVEC's Terms and Conditions of service are reasonable and should be approved;[438] (6) SVEC's proposed Schedule SSR-1 (the Cooperative's proposed community solar subscription rider) is reasonable and should be approved as proposed in the Application;[439] (7) SVEC's proposed addition of Schedule AS-1 to pass through the costs of purchasing power from an alternative supplier to ODEC is reasonable and should be approved;[440] and (8) SVEC's proposal to withdraw its Seasonal Residential Schedule S-7 should be approved.[441] Based upon the record, including evidence of SVEC's financial condition and need for the proposed revenue increase, I conclude the undisputed provisions agreed to in the

[431] Staff Brief at 1.
[432] *Id.* at 1-2.
[433] *Id.*
[434] Ex. 9, attached Partial Stipulation at 2.
[435] *Id.* Although SUN-VA took issue with the classification methodology used by Mr. Gaines to support the proposed BCC, it does not directly challenge SVEC's proposed revenue apportionment.
[436] *Id.* at 3. While SUN-VA and certain public witnesses opposed the Cooperative's proposed addition of a non-coincident demand charge for Schedule A-13 (Residential Service, currently Schedule A-12), the proposed demand charge for Schedule C-13 (Church Service, currently Schedule C-12) was not directly opposed in this case.
[437] *Id.* Although SUN-VA's witness Rábago suggested the Cooperative's proposed inclining block PSS rate for the summer months will not promote efficiency because a significant portion of the customer's bill will remain non-bypassable, SUN-VA did not directly oppose the approval of SVEC's proposed seasonal PSS rates. *See* Tr. at 135.
[438] Ex. 9, attached Partial Stipulation at 3.
[439] *Id.*
[440] *Id.*
[441] *Id.*

Partial Stipulation are fair, reasonable, in the public interest, comply with the statutory provisions cited above, and should be approved by the Commission.

I turn next to the primary proposals at issue in this case – SVEC's proposed increase to its residential BCC and its proposed addition of a residential demand charge.[442]

As reflected above, the Cooperative's class COS study supports its proposed increase of the monthly residential BCC from $25 to $30.[443] Staff concluded such study reasonably approximates the costs of serving the Cooperative's varying rate classes.[444] In addition, SVEC's classification of costs as customer-related was determined using a hybrid minimum system/minimum intercept methodology previously accepted by the Commission.[445] I am also unpersuaded by SUN-VA's suggestion that the Cooperative should have used a different cost classification methodology limiting the assignment of customer costs *only* to costs associated with directly connecting customers to the grid (and excluding all costs associated with the Cooperative's primary system and transformers).[446] Such an approach ignores the reality that to have electric service, a residential customer's meter and service facilities must be connected to a transformer and the Cooperative's primary distribution system.[447] Furthermore, the evidence reflects SVEC's proposed BCC, while exceeding the Virginia cooperative average, is not wholly out of line with the fixed charges of other cooperatives throughout Virginia.[448] All of these factors lead me to conclude the Cooperative established a sufficient evidentiary basis for the Commission's approval of its proposed residential BCC increase.

Moreover, while I am cognizant of the concerns expressed by SUN-VA, Frederick County, several public witnesses, and numerous persons submitting written comments that the increase to the BCC is likely to disproportionately impact low users of electricity (because they will be required to pay the same increased fixed charge regardless of how much electricity they actually use);[449] runs counter to established ratemaking principles such as gradualism/is

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[442] While SUN-VA opposed SVEC's proposed residential BCC increase, it did not directly oppose SVEC's proposed increase to the BCC for Church Service and General Service customers. *See* SUN-VA Brief at 1. Similarly, although Frederick County took no position in the Partial Stipulation regarding SVEC's proposed increase to the BCC for Residential, Church Service, and General Service customers, its concerns regarding potential negative impacts to residential customers appear to constitute its primary basis for urging the Commission to modify SVEC's BCC in its post-hearing brief. Frederick Brief at 1-2. Furthermore, while SUN-VA and certain public witnesses opposed the Cooperative's proposed addition of a residential demand charge, Frederick County took no position relative to such demand charge. *See* SUN-VA Brief at 2; Frederick Brief at 1-2; Ex. 9, attached Partial Stipulation at 3.

[443] *See* Ex. 1, Schedule 15E. As explained by SVEC, its COS study actually supports a BCC slightly exceeding $32. *See* Tr. at 116; SVEC Brief at 9.

[444] Ex. 15, at 8. Frederick County also agreed. Ex. 9, at 2.

[445] *See, e.g. Application of Southside Electric Cooperative for a general increase in electric rates*, Case No. PUR-2019-00090, 2020 S.C.C. Ann. Rep. 278. See also SVEC Brief at 11-15.

[446] *See* Ex. 10, at 38, 40.

[447] I also note that, pursuant to § 56-585.3 A (4) of the Code, a cooperative is specifically authorized to recover the costs of "owning and operating its distribution system" – not just the costs of connecting customers to the grid – through fixed monthly charges, rather than volumetric rates.

[448] Ex. 16, at 25. *See also* SVEC Brief at 16.

[449] *See, e.g.,* SUN-VA Brief at 11-12.

inconsistent with best utility practices;[450] and conflicts with Virginia's environmental and energy efficiency goals established by various statutory provisions;[451] such concerns do not, in my assessment, warrant the Commission's refusal to approve the Cooperative's proposal to increase its residential BCC. As noted above, the proposed BCC is supported by SVEC's class COS study classifying customer-related costs using a methodology implemented by numerous Virginia cooperatives and previously accepted by the Commission. No case participant submitted an alternative COS study for the Commission's consideration. Finally, the significant statutory discretion afforded to cooperative boards authorizing their implementation of monthly fixed customer charges, rather than volumetric charges, to recover the costs of owning and operating electric distribution systems appears, in my assessment, to support the Commission's approval of SVEC's residential BCC proposal.[452]

For these reasons, I conclude the Cooperative's proposed increase to the residential BCC is sufficiently supported by the record and should be approved.

I next consider SVEC's proposal to introduce a new residential demand charge. The record reflects the Cooperative intends to introduce a minimal demand charge of $0.10/kW (and based on a customer's maximum monthly demand or monthly non-coincident peak) to the volumetric portion of residential customer rates.[453] SVEC also presented evidence showing its proposed demand charge is designed to shift the recovery of a portion of its demand-related fixed distribution costs from the distribution energy charge to the new demand charge.[454]

As reflected above, SUN-VA opposes the residential demand charge as not being cost-based.[455] More specifically, based upon the opinion of its expert, Mr. Rábago, SUN-VA maintains that the Cooperative's proposal to base its residential demand charge on a customer's maximum kW demand each month, regardless of when the maximum demand actually occurred, and regardless of the coincident peak driving the Cooperative's higher power costs and energy prices, results in a rate that is not cost based.[456] SUN-VA also characterizes the residential

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[450] *See id.* at 5-11.

[451] *See id.* at 11-14.

[452] *See* § 56-585.3 A (4) of the Code. Similarly, given the significant and explicit discretion given to cooperative boards by § 56-585.3 A (4) allowing for revenue neutral rate design changes without Commission approval, I find unpersuasive SUN-VA's suggestion (echoed by several public witnesses) that heightened Commission review of the Application is warranted herein based upon a lack of opportunity for direct membership participation in ratemaking decisions. *See* SUN-VA Brief at 15-17. I note further that the Northern Virginia Electric Cooperative decision cited by SUN-VA, as support for lowering the BCC, predated the General Assembly's enactment in its 2009 Session of § 56-585.3 A (4) of the Code. *See id.* at 7 (citing *Application of Northern Virginia Electric Cooperative, For an increase in electric rates,* Case No. PUE-2008-00076, 2009 S.C.C. Ann. Rep. 336). Nevertheless, I also recognize that the Commission continues to have the authority and discretion to determine the reasonableness of cooperative rates and to oversee the regulated services of Virginia cooperatives. *See* §§ 56-231.33, 56-231.34, and 56-585.3 of the Code.

[453] *See* Ex. 16, at 33-34.

[454] Ex. 7, at 25. As reflected above, SVEC also intends to introduce a comparable demand charge for Church Service customers. The Church Service demand charge was not directly opposed in this case.

[455] SUN-VA Brief at 14. *See also* Ex. 10, at 59.

[456] SUN-VA Brief at 14-15; Ex. 10, at 59. In addition, because the proposed residential demand charge is so low and not based on the actual amount of customer-related demand costs, SUN-VA characterizes the demand charge as

demand charge as a "Trojan Horse" rate because customers lack the ability to control it through their behavior.[457]

Unlike SUN-VA, the Cooperative maintains the residential demand charge is cost-based because it is designed to recover customer-related demand costs and is better suited as a mechanism for recovering such costs than the energy consumption component of residential rates.[458] SVEC also represents, through sworn testimony, that it will use the implementation of the minimal demand charge proposed herein as a mechanism for educating members as the Cooperative moves toward its ultimate goal of enhancing the demand price structure, after the implementation of AMI, to include a TOU differential.[459]

While SVEC does not maintain the proposed *de minimis* residential demand charge reflects the actual demand costs of individual residential members, the proposed amount of such charge is so low ($0.10/kW) that it undoubtedly under-represents customer-related demand costs. In my assessment, therefore, the record reflects a sufficient cost-basis for residential demand charge's approval. I also conclude SVEC established the reasonableness of its plan to implement the minimal residential demand charge as a mechanism for educating members while moving toward its ultimate goal of enhancing the demand price structure, after the implementation of AMI, to include a TOU differential. I note further that the Commission recently approved similar minimal residential demand charges in cooperative cases.[460] Moreover, Commission approval of cooperative residential demand charges appears consistent with the statutory authority given to cooperative boards to use demand charges to rebalance electricity supply service rates.[461] For these reasons, I conclude the proposed residential demand charge is adequately supported by the record and should be approved by the Commission.

Lastly, I address SVEC's request to implement its new rates and charges effective for bills rendered on or after March 1, 2022, rather than on January 1, 2022.[462] In the Procedural Order, and consistent with the Cooperative's request in its Application, the Commission authorized, but did not require, the Cooperative to put its proposed rates into effect on an interim basis, subject to refund with interest, effective January 1, 2022. Thus, SVEC already has the

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a fixed charge. Ex. 10, at 66. *See also* Tr. at 142 (Mr. Rábago reaffirming his contention that the demand charge is another fixed charge).

[457] *See* Ex. 10, at 66. SUN-VA also identifies the proposed demand charge's failure to give customers a means to respond through their behavior as an additional reason for denying its approval. SUN-VA Brief at 14-15.

[458] *See, e.g.*, SVEC Brief at 18-20.

[459] *See* Ex. 7, at 26-27.

[460] *See Application of Southside Electric Cooperative, For a general increase in electric rates,* Case No. PUR-2019-00090, 2020 S.C.C. Ann. Rep. 277; *Application of Northern Neck Electric Cooperative, For a general increase in electric rates,* Case No. PUR-2020-00083, Final Order at 5 (June 1, 2021); *Application of Craig-Botetourt Electric Cooperative, For a general increase in electric rates,* Case No. PUR-2020-00131, Final Order at 4, 7 (Aug. 11, 2021). In these cases, however, the residential demand charges were not directly opposed. For the reasons outlined above, I conclude the Cooperative has established an adequate evidentiary basis for the demand charge's approval. Nevertheless, I also recognize that the Commission has the authority and discretion to deny its approval of such charge. In particular, the Commission may find it appropriate to deny such approval until SVEC has provided more detailed cost support for the demand charge or, perhaps, until AMI has been deployed.

[461] *See* § 56-585.3 A (4) of the Code.

[462] *See* SVEC Brief at 27.

authority to delay the implementation of its new rates and charges. Nevertheless, given my conclusion that the Cooperative established an evidentiary basis for the approval of its proposed rates and charges, I also find it appropriate to recommend that the Commission authorize SVEC's implementation of its new rates and charges (on a non-interim basis) effective for bills rendered on or after March 1, 2022, consistent with SVEC's updated request.[463]

FINDINGS AND RECOMMENDATIONS

Based on the record developed in this proceeding, and for the reasons set forth above, I find:

1. The Motion *in Limine* should be denied;

2. The Partial Stipulation proposed by the Stipulating Participants offers a fair and reasonable resolution of all issues in this proceeding except for SVEC's proposed increase to its residential BCC and proposed addition of a residential demand charge;

3. SVEC's proposed increase to its residential BCC and proposed addition of a residential demand charge are adequately supported by the evidence and should be approved by the Commission; and

4. The Commission should authorize SVEC to implement its new rates and charges effective for bills rendered to members on and after March 1, 2022.

Accordingly, **I RECOMMEND** the Commission enter an order that:

1. ***ADOPTS*** the findings and recommendations in this Report;

2. ***APPROVES*** the Partial Stipulation; and

3. ***DISMISSES*** this case from the Commission's docket of active cases.

COMMENTS

The parties are advised that, pursuant to Rule 5 VAC 5-20-120 C of the Commission's Rules of Practice and § 12.1-31 of the Code, any comments to this Report must be filed on or before December 10, 2021.[464] In accordance with the directives of the Commission's *COVID-19*

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[463] I also recognize SUN-VA's suggestion during the hearing that Staff failed to adequately address environment issues when conducting its review of SVEC's Application. Tr. at 129. However, SUN-VA provided no evidence or argument that the proposals in the Application violate Virginia's Environmental Justice Act, § 2.2-234 *et seq.* of the Code ("VEJA"). Among other things, SUN-VA does not address environmental justice in its brief. Moreover, no other case participant raised environmental justice concerns associated with the Application. In my view, the requirements of the VEJA are irrelevant to the issues before the Commission in this case.

[464] *See* Tr. at 211 (reflecting participant agreement to abbreviated time for the submission of comments on the Report).

Electronic Service Order[465] the parties are encouraged to file electronically. If not filed electronically, an original and fifteen (15) copies must be submitted in writing to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document certifying that copies have been served by electronic mail to all counsel of record and any such party not represented by counsel.

Respectfully submitted,

A. Ann Berkebile
Senior Hearing Examiner

Document Control Center is requested to send a copy of the above Report to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, VA 23219.

[465] *Commonwealth of Virginia, ex rel State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service, (April 1, 2020) ("*COVID-19 Electronic Service Order*").