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Bernard Logan, Clerk
c/o Document Control Center
State Corporation Commission
1300 E. Main Street
Richmond, VA 23219

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

Dear Mr. Logan:

Please find the attached Objections to Hearing Examiner's Report of Solar United Neighbors of Virginia for filing in the above-captioned matter.

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

Sincerely,

/s/ William T. Reisinger

William T. Reisinger

cc: Certificate of Service

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF

SHENANDOAH VALLEY ELECTRIC
COOPERATIVE

CASE NO. PUR-2021-00054

For a general increase in rates

**OBJECTIONS TO HEARING EXAMINER’S REPORT OF
SOLAR UNITED NEIGHBORS OF VIRGINIA**

Pursuant to the Hearing Examiner’s December 2, 2021, Ruling, respondent Solar United Neighbors of Virginia (“SUN-VA”), by counsel, files the following Objections to the Hearing Examiner’s December 3, 2021, Report and Recommendation (“Report”) regarding the application of Shenandoah Valley Electric Cooperative (“SVEC” or “Cooperative”) for a general increase in rates. SUN-VA is a 501(c)(3) non-profit organization representing the interests of solar homeowners and solar supporters throughout the Commonwealth, including in the Cooperative’s service territory.

OBJECTIONS

The Hearing Examiner’s Report provides an exhaustive summary of the application and testimony presented in this case. The Report also provides a short analysis of why the Hearing Examiner recommends approval of the application, including the Cooperative’s controversial rate design proposals.

SUN-VA objects to the Hearing Examiner’s analysis of two elements of the Cooperative’s rate proposal:

- (1) the Cooperative’s proposal to assign 90% of the revenue increase to fixed charges, thereby increasing its basic customer charge

(“BCC”) to \$30.00, after increasing such charge from \$13.76 to \$25.00 in 2020, and

- (2) the Cooperative’s proposal to implement a residential demand charge.

The evidence showed these proposals to be unreasonable. The Cooperative’s proposal to increase its BCC was based on unreasonable cost allocation decisions. The result would be unfair rate increases for low-usage customers and those customers who have invested in energy conservation measures, such as energy efficiency or rooftop solar. The evidence also showed the Cooperative’s rate design proposals to be contrary to Virginia’s clear public policy. The Hearing Examiner appears to give little if any weight to this evidence.

The evidence also showed that the Cooperative’s proposal to implement a demand charge for residential customers is premature and not ready for approval. The Hearing Examiner recommends approval of this demand charge despite evidence that it will have no effect at this time, as the Cooperative has not even installed the metering equipment necessary to utilize time-differentiated billing.

The Hearing Examiner also appears to give little if any weight to the SVEC customers who attended the hearing to testify regarding serious governance issues associated with the Cooperative’s development of this rate case. As one SVEC member testified, customers “are not allowed to attend the Board meetings or even to review detailed minutes of such significant decisions as the allocation of costs among the various classes of customers.”¹

Finally, it appears the Hearing Examiner’s recommendations were influenced by her incorrect view that this particular monopoly should be subject to less stringent oversight because of its status as an electric cooperative.

¹ Tr. 14.

- A. The Hearing Examiner’s recommendation that the Commission should approve SVEC’s BCC increase proposal was in spite of clear evidence that the increase is *not* based on reasonable cost allocation, is *not* “gradual,” and is *not* consistent with the other fundamental ratemaking principles the Commission uses to evaluate rate design changes.**

In her Report, the Hearing Examiner stated that she was “cognizant” of the concerns raised by SUN-VA, respondent Frederick County, and the SVEC customers who testified at the evidentiary hearing about the fairness and reasonableness of the proposed BCC increase.² The Hearing Examiner, however, determined that “such concerns do not, in my assessment, warrant the Commission’s refusal to approve the Cooperative’s proposal to increase its residential BCC.”³ For several reasons, the Hearing Examiner’s assessment was contrary to the evidence.

1. The Cooperative’s method of assigning fixed costs was shown to be outdated and unreasonable.

In her short analysis, the Hearing Examiner found the proposed BCC increase to be supported by SVEC’s cost of service study in part because the Commission has, in the past, approved fixed charge proposals based on similar methodologies.⁴ The Hearing Examiner also referenced the fact that “[n]o case participant submitted an alternative [cost of service] study for the Commission’s consideration.”⁵

The Hearing Examiner is correct that SUN-VA did not retain a consultant to prepare a full cost of service study, an undertaking that would be cost-prohibitive for most respondents. SUN-VA’s expert witness, Mr. Rábago, however, did testify regarding the serious flaws in the Cooperative’s cost allocation methodologies. Mr. Rábago recommended changes to the Cooperative’s outdated cost allocation consistent with best practices in the industry. Mr. Rábago

² Report at 45.

³ Report at 46.

⁴ Report at 45.

⁵ Report at 46.

explained how the Cooperative, in its cost of service study, utilized an unreasonable method of allocating fixed charges in order to justify its BCC increase proposal.⁶ As Mr. Rábago testified, “the [Cooperative’s] fixed customer charges are unreasonably high because the [Cooperative] puts costs into the fixed customer charge that simply do not belong there.”⁷

The decision to assign more costs to the BCC based on a “hybrid” of two allocation methodologies was a judgment made by the Cooperative. At the hearing, the Cooperative’s rate consultant, Mr. Gaines, agreed that “the methodologies that are used for cost allocation are subject to or are, to some degree, subjective, [and] that different analysts have different opinions about how they should be done.”⁸

Mr. Rábago provided evidence that the so-called “basic customer method” is more rational and represents the modern method for allocating fixed costs. Under this approach, “fixed customer charges should be built up based on costs that vary only with the number of customers.”⁹ A fixed customer charge should be “limited to the marginal cost of connecting the customer to the grid and should include only costs that vary directly with the number of customers. Mr. Rábago provided three options under which the Cooperative’s proposed revenue requirement increase could be recovered more equitably through volumetric rates.¹⁰ Mr. Rábago’s proposals result in a more reasonable fixed charge of \$15 per month.¹¹

⁶ In short, the Cooperative used a “hybrid” of the outdated “minimum system” and “minimum intercept” cost allocation methods in order to assign more costs to the BCC. The minimum system method is based on the theory that costs can be assigned based on a hypothetical minimum-sized distribution system, and that a portion of such minimum system costs should be allocated as fixed charges. See SUN-VA Post-Hearing Brief at 7-8.

⁷ Ex. 10 (Rábago) at 9.

⁸ Tr. 104.

⁹ Ex. 10 (Rábago) at 13.

¹⁰ Ex. 10 (Rábago) at 24-25.

¹¹ Ex. 10 (Rábago) at 58-59, 66.

2. The Hearing Examiner appears to give no weight to the fundamental rate design principles used by this Commission, including the principles of fairness, predictability, and gradualism in rate changes.

In her Report, the Hearing Examiner provided no analysis of whether another increase in the fixed portion of a customer's bill would be fair or consistent with the principle of "gradualism." As discussed above, the Cooperative proposes to recover almost all of the requested revenue increase through an increase to its BCC. Of the \$5.3 million revenue increase requested in this case, \$4.8 million, or 90%, would be recovered through the BCC.¹² The current proposed increase also comes on the heels of another significant increase in January 2020, at which time the Cooperative – without Commission approval – increased its BCC from \$13.76 to \$25.00.¹³ If the Cooperative's proposal is approved, the Cooperative's BCC will have increased from \$13.76 to \$30.00 in approximately two years. This would be an extraordinarily large – 118% – increase in the fixed portion of a customer's bill.

In its post-hearing brief, SUN-VA explained that such a dramatic increase in the fixed portion of a customer's bill is not consistent with the fundamental ratemaking principles that this Commission uses to evaluate proposed rate design changes. The Commission and its Staff generally consider these criteria, articulated by Professor James C. Bonbright, when evaluating rate changes. Staff witness Gravely recited these fundamental criteria, which include the principles of fairness, predictability, discouraging waste, and gradualism¹⁴

At the hearing and its post-hearing brief SUN-VA explained that the Cooperative's proposal is inconsistent with several of Bonbright's principles, including the principles of "rate

¹² See Ex. 10 (Rábago) at 7 (citing Cooperative Schedule 3); Tr. 72.

¹³ See Tr. 74, 85.

¹⁴ See Ex. 11 (Gravely) at 9-10 (citing *Principles of Public Utility Rates*, by James C. Bonbright, Albert L. Danielsen, and David R. Kamerschen with assistance from John B. Legler, Second Edition (1988), 383-384).

stability and predictability,” often referred to as “gradualism” in ratemaking.¹⁵ As SVEC customer Robert Spiller testified at the hearing, “SVEC already increased that charge more than 81 percent effective January 2020, and now are seeking to add another \$5 per month to our bills.” “If this Application is approved, that part of our rate will have increased by 118 percent since December 2019 ... So we can be careful with our electricity use, but our cost will still go up.”¹⁶ For lower-usage customers, including low-income customers and those customers who have made substantial investments in solar or energy efficiency, the BCC is likely already the largest component of their electric bill.

In its post-hearing brief, SUN-VA explained that the principles of fairness, predictability, discouraging waste, and gradualism apply not only to total rate changes, but also to rate design components such as fixed charges.¹⁷ The Commission evaluates these principles in both electric cooperative and investor-owned-utility rate proceedings. In a 2008 case, for example, the Commission, in rejecting the full fixed charge increase requested by an electric cooperative, referenced the principle of gradualism. The Commission also noted that while consumers have control over their volumetric consumption, they have no control over the fixed portion of their bill:

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

¹⁵ See SUN-VA Post-Hearing Brief at 7.

¹⁶ Tr. 15.

¹⁷ See SUN-VA Post-Hearing Brief at 7 (citing Ex. 11 (Gravelly)).

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

The Cooperative's proposal to increase its BCC for a second time in two years cannot be found to be gradual, predictable, or reasonable.

3. The Hearing Examiner erred by concluding that Virginia Code Section 56-585.3 is relevant to this case.

The Hearing Examiner's analysis of this issue appears to have been informed by her interpretation of Va. Code § 56-585.3 A. The Hearing Examiner concluded that "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."¹⁹ This was an error.

The statute referenced by the Hearing Examiner authorizes electric cooperatives to make certain "revenue neutral" rate changes outside of formal rate cases. Whether or not SVEC's board can authorize a revenue neutral increase to its BCC *outside* of this rate proceeding is not relevant here. Here the Cooperative *has* filed a rate case. The Cooperative's proposed BCC increase is also not revenue neutral. It is proposed for the purpose of raising revenue. The Cooperative proposes to recover 90% of its requested \$5.3 million revenue increase through the increased BCC.

Finally, SUN-VA notes that under Virginia law, it is always the utility requesting rate changes that bears the burden of providing that such changes are just, reasonable, and meritorious.²⁰

¹⁹ Report at 46.

²⁰ See Va. Code § 56-235.3 ("At any hearing on the application of a public utility for a change in a rate, toll, charge or schedule, the burden of proof to show that the proposed change is just and reasonable, shall be on the public utility"); see also *Roanoke Gas Co. v. Division of Consumer Counsel*, 219 Va. 1072, 1079 (1979).

Contrary to the Hearing Examiner's apparent view, Va. Code § 56-585.3 does not mean the Commission should give this utility additional deference in a rate case. It means the opposite. Because this monopoly is allowed to make certain rate changes outside of Commission proceedings, it heightens the importance of this case. The Commission should conduct oversight of this utility when it has the opportunity to do so. As an SVEC customer, Mr. Spiller, testified "[t]he State Corporation Commission is the consumer's only hope of opposing lengthy complex rate increase applications in the case of this lightly regulated Cooperative."²¹

3. The Hearing Examiner should have considered the Cooperative's apparent motive behind its BCC increase proposal: to make customers who naturally use less energy, and/or implement efficiency measures, and/or install rooftop solar pay more.

The Hearing Examiner should have recognized and concluded that the Cooperative's cost allocation decisions were influenced by flawed opinions about energy efficiency and rooftop solar. The evidence indicated that the Cooperative views distributed generation and energy efficiency as *costs* that should be contained rather than *benefits* that should be encouraged. As Mr. Rábago explained, there is evidence "in this record that this Cooperative [views] reduced use and reduced use through self-generation, through distributed generation and net metering, as a problem."²² In its post-hearing brief, SUN-VA cited at length the evidence – including minutes of the Cooperative's Board of Directors – that the Cooperative developed its rate design proposals with the intent to recover more costs from those customers who have installed solar or implemented energy efficiency measures or who naturally use less energy.²³

²¹ Tr. 14.

²² Tr. 141.

²³ Tr. 114-115.

At the hearing and in its post-hearing brief, SUN-VA explained how this view is shortsighted. Customers that voluntarily invest in rooftop solar, energy efficiency, or other measures to reduce their peak demand provide benefits to the utility and all other customers.²⁴ SUN-VA noted, for example, that the Cooperative's generation supplier, the Old Dominion Electric Cooperative ("ODEC"), charges the Cooperative based on energy and demand.²⁵ "Members can reduce wholesale price costs and their bills in the relatively short term by reducing usage, especially during periods that ODEC experiences high demand."²⁶

4. The Cooperative's proposal to increase its BCC is contrary to Virginia's public policy, as it discourages investments in energy efficiency and distributed solar. The Hearing Examiner appears to give no weight to these indisputable facts.

At the hearing, SUN-VA and several public witnesses explained why the Cooperative's proposal to assign 90% of the requested \$5.3 million revenue increase to the BCC is regressive, wasteful, and contrary to Virginia's public policy. Although the Hearing Examiner stated that she was "cognizant" of these facts, the examiner appears to give them no weight in her analysis.²⁷

As a general matter, higher fixed charges reduce the ability of customers to control their energy costs. As SVEC customer Robert Spiller testified, increases in fixed costs fall "most heavily on residential rate customers and, among them, most heavily on the residential customers who use the least electricity."²⁸ Frederick County explained that these individuals are often "consumers with more limited economic means."²⁹ This is regressive, as it forces lower-usage

²⁴ See Ex. 10 (Rábago) at 28.

²⁵ Ex. 10 (Rábago) at 28.

²⁶ Ex. 10 (Rábago) at 28-29.

²⁷ Report at 45-46.

²⁸ Tr. 18.

²⁹ Frederick County Post-Hearing Brief at 2.

customers to pay higher energy costs. The Cooperative did not even attempt to quantify how its proposal to increase fixed charges would affect low-income SVEC customers. Mr. Rábago explained that the Cooperative did not do a “bill-frequency analysis, so it does not know how consumption levels are distributed among residential members.”³⁰

Higher fixed charges also reduce the incentive for customers to implement new efficiency measures or install carbon-free generation systems. Higher fixed charges penalize those customers who have already made such investments, in good faith and in order to control their energy costs. The Commission heard from SVEC customer Sally Newkirk who testified that she and her husband made “about \$80,000” in investments to reduce their energy consumption, investments such as additional insulation, a geothermal heat pump, rooftop solar, and shade trees.³¹

SUN-VA explained that the Cooperative’s efforts to penalize such customers who use less energy, or who have implemented energy savings measures, is contrary to the Commonwealth’s public policy. As Mr. Rábago testified, “Virginia’s in a new era and the Virginia energy policy is pushing in a direction that these approaches simply are not consistent with.”³² At the hearing and in its post-hearing brief, SUN-VA cited the Commonwealth’s clear public policy to encourage carbon reductions, energy conservation, and customer-owned renewable generation.³³ The Cooperative’s BCC increase proposal contravenes all of these policy goals.

³⁰ Ex. 10 (Rábago) at 15 (internal citations omitted).

³¹ Tr. 9-12.

³² Tr. 137.

³³ See SUN-VA Post-Hearing brief at 12-14 (citing expanded net metering opportunities for cooperative customers; statewide energy reduction goals; statewide carbon reduction mandates and energy efficiency investments; and the General Assembly’s findings and policy directives regarding solar and energy efficiency contained in Title 45.2 and Title 67 of the Code of Virginia.)

The Hearing Examiner's analysis is flawed as it appears to give no weight to Virginia's public policy.

B. The Hearing Examiner erred by recommending approval of the Cooperative's proposed demand charge, despite evidence that the Cooperative does not even have the requisite infrastructure to take advantage of time-differentiated billing.

The Commission should also reject the Cooperative's proposal to assess a demand charge for residential customers. The Cooperative proposes to implement a new charge based on a customer's maximum kW demand each month.³⁴ Customers would be charged \$0.10 per kW regardless of when the maximum demand actually occurred. This is not a rational or cost-based proposal. The demand charge does not correspond to the coincident peak demand that drives higher costs in power and energy purchases from ODEC. As Mr. Rábago testified, "charging residential members for their peak demand regardless of when it occurs means that the proposed rate is not based on cost causation."³⁵ Because the Cooperative has not installed meters capable of measuring time-differentiated demand, the Cooperative "has no way of knowing whether the demand it proposes for billing actually causes costs or, instead, adds valuable cost-reducing load diversity."³⁶

Demand charges, when used with advanced metering infrastructure and time of use rate options, may allow customers to manage their energy usage. But the Cooperative does not even have the smart meters in place to take advantage of any potential benefits that could be provided by a demand charge.³⁷ As Staff recognized, "the Cooperative's current technology cannot record

³⁴ See Ex. 7 (Gaines Direct) at 26-27.

³⁵ Ex. 10 (Rábago) at 59.

³⁶ Ex. 10 (Rábago) at 59-60.

³⁷ Tr. 206.

on a time differentiated basis” and the Cooperative does not currently provide “metering equipment capable of registering on and off-peak billing demand.”³⁸

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

C. The Hearing Examiner appears to give no weight to the serious governance issues raised by Cooperative members. The lack of any meaningful opportunity for customers to influence or comment on this rate filing is relevant to, and increases the importance of, this proceeding.

As discussed above, the Hearing Examiner incorrectly believes that this utility is entitled to some higher level of deference due to its status as an electric cooperative.³⁹ The Hearing Examiner also appears to ignore the serious governance issues raised by SVEC’s members. The evidence showed that the Cooperative’s customers, for example, are not allowed to attend the board meetings where decisions regarding rate design are made.⁴⁰ Members were given no notice of the Cooperative’s rate design proposals and no opportunity to object to them prior to this rate case filing.⁴¹

In its post-hearing brief, SUN-VA explained why the Cooperative’s governance – including its failure to notify members of controversial rate design proposals and its failure to allow members to attend meetings where such proposals are discussed – is relevant to this case. The Cooperative has not filed a general rate case since 2014, and it is unclear when the Cooperative may file another one.⁴² Therefore, it is important for the Commission to use its full authority, when it has the opportunity, to scrutinize the Cooperative’s rate proposals.

³⁸ Ex. 15 (Gravelly) at 15.

³⁹ See Report at 46, note 452.

⁴⁰ Tr. 14, 27; see also Ex. 17 (Rogers Rebuttal) at 2 (explaining that Cooperative members were notified of the rate filing after it was filed on March 16, 2021).

⁴¹ Tr. 88-91.

⁴² See Ex. 1 (Application) at 4.

The Hearing Examiner appears to give no weight to the issues of transparency and governance to which SVEC members testified. This was an error.

CONCLUSION

The evidence in this case showed the Cooperative's proposal to assign 90% of the requested revenue increase to fixed customer charges was unreasonable, contrary to fundamental ratemaking principles, and inconsistent with Virginia's public policy. The evidence also showed the Cooperative's demand charge proposal to be unreasonable and not ready for approval. The Hearing Examiner's analysis of these proposals is contrary to the evidence and should be rejected.

For the forgoing reasons, SUN-VA requests that the Commission enter a final order that *rejects* the Cooperative's proposed basic consumer charge increase; *rejects* the Cooperative's proposal to implement a demand charge for residential customers; and *orders* the Cooperative to reduce its basic service charge consistent with the recommendations of SUN-VA witness Rábago.⁴³

Respectfully submitted,

SOLAR UNITED NEIGHBORS OF VIRGINIA

By counsel

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December 10, 2021

⁴³ Ex. 10 (Rábago) at 58-59, 66.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served this 10th day of December, 2021, by e-mail to:

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