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January 27, 2022

Board of Trustees
Marlboro Electric Cooperative, Inc.
c/o Paul Conway, Esquire
676 HWY 9 East
Bennettsville, SC 29512
pconway@marlboro.coop

RE: Electric Cooperative 2021 Compliance Examination in Accordance with S.C. Code Ann. § 33-49-150(A)

Dear Members of the Board:

In accordance with S.C. Code Ann. § 33-49-150(A), the South Carolina Office of Regulatory Staff ("ORS") has conducted its examination of Marlboro Electric Cooperative, Inc. (the "Cooperative"), pursuant to the provisions of Act 56 which was enacted in 2019, relating to compliance with the provisions of the Act.

ORS conducted its examination in accordance with amended Section 58-4-50. Sections of the Act covered by ORS's examination are listed as follows:

- 33-49-255 - Restrictions on Interruption of Electric Service to Residential Customers for Nonpayment of Bill; Exceptions and Complaints
- 33-49-280 - Bylaws
- 33-49-420 - Meetings
- 33-49-430 - Quorum
- 33-49-440 - Voting
- 33-49-450 - Disposition of Propositions Presented by Not Less Than Ten Percent of Members
- 33-49-610 - Trustees
- 33-49-615 - Disclosure of Compensation and Benefits
- 33-49-620 - Voting Districts for Trustees and For Delegates
- 33-49-625 - Notice, Votes, and Minutes
- 33-49-630 - Compensation or Employment of Trustee; Actions and Conduct Prohibited
- 33-49-640 - Annual Election and Term of Trustees
- 33-49-645 - Conduct of Elections
- 33-49-1420 - Termination Procedures; Contents

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Accordingly, the timing and extent of ORS's procedures were conducted as follows:

- (1) The examination involved reviewing compliance with the sections of Act 56 listed above, for the period from the effective date of the provision to June 30, 2021.
- (2) ORS's examination procedures included the following: questionnaires, inquiries, review of the Cooperative's bylaws, review of board meeting notices, review of minutes of meetings, review of trustee compensation and benefits related to board meeting attendance, and other analytical analysis.
- (3) Regarding trustee compensation and benefits, ORS primarily reviewed the report content and format to ensure the disclosure contained the information required under section 33-49-615. Regarding dollar amounts reported, ORS performed only limited sample tests of payments from the Cooperative.

Based upon the examination procedures performed and the results obtained from the examination and the affirmations provided, Marlboro Electric Cooperative, Inc. is in compliance with Act 56, except for:

- (1) The Cooperative's current practice of paying a monthly fixed fee to trustees does not comply with S.C. Code 33-49-630(A) which states "compensation shall not be paid [to trustees] except for actual attendance upon activities authorized by the board." The Cooperative indicated during the audit its practice is to pay trustees a monthly fixed fee for routine monthly functions such as attending board and committee meetings. In response to questions from ORS regarding this practice, the Cooperative indicated the monthly fee is not based on attendance but board members are required to attend monthly meetings. If a board member is not able to attend a monthly meeting, he or she must meet with the CEO or Chairman to review all updates and action taken at the meeting. The board may take action to remove a board member who continuously misses meetings. The Cooperative also indicated on an aggregate basis its board's total compensation is relatively low due to only two board members currently receiving health insurance benefits through the cooperative. The board having the ability to take action to remove a board member who continuously misses meetings is not sufficient to make the current practice compliant with section 33-49-630(A), as the board would have to take action and the board member actually be removed before payment of the monthly fixed fee to the board member would cease. Section 33-49-630(A) requires attendance as a condition to receiving compensation. This finding is based on the language of section 33-49-630(A) and not on any analysis or comparison of the amount of compensation paid to and benefits provided to Marlboro Electric Cooperative Inc.'s board members relative to other cooperatives.

As part of our examination, ORS also has the following recommendations:

- (1) The meeting notice for the annual meeting of the Cooperative's members held on October 3, 2020, was sent on September 8, 2020, twenty-five (25) days prior to the meeting. Based on information the Cooperative provided ORS, no contested elections were held at this meeting. ORS's position is S.C. Code Ann. § 33-49-420 requires written notice of all annual meetings of the members be given to each member, either personally or by mail, at least thirty (30) days prior to the date of the meeting, regardless of whether there is an election. ORS recommends the Cooperative going forward provide notice to the members, personally or by mail, a minimum of thirty (30) days prior to all annual meetings. ORS also recommends the Cooperative's bylaws be updated accordingly.

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- (2) Eighteen out of twenty-two cooperatives audited by ORS provided the disclosures required under section 33-49-615 broken down by individual board members. Four provided the disclosures as lump sums for the entire boards. As in the review letter after the 2020 audit, ORS continues to recommend that all cooperatives break down their disclosures of compensation on a per board member basis to ensure greater transparency to the membership.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Herpel', written over a horizontal line.

David Herpel, CPA
ORS Audit Manager