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December 20, 2021

Via Email Only

Board of Trustees
Newberry Electric Cooperative, Inc.
c/o Keith Avery
882 Wilson Road
Newberry, SC 29108
kavery@nec.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 Newberry 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 our 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

Accordingly, the timing and extent of our tests were conducted as follows:

- (1) The examination involved testing 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.

Based upon the examination procedures performed and the results obtained from the examination and the affirmations provided, the Cooperative is in compliance with Act 56.

As part of our examination, we have the following recommendations:

1. In ORS's review of minutes, ORS noted that the Cooperative did not document within the minutes the names of board members in attendance. ORS recommends that the Cooperative list each Trustee individually in attendance in the minutes of meetings. This recommendation ensures written documentation of the Trustees who were in attendance and is standard practice for recording of minutes. It also allows for verification of various statutory requirements, including those related to board member compensation. Without this information being included in the minutes, ORS may be unable to verify compliance with certain provisions of Act 56 for purposes of future audits.
2. Regarding the disclosure to cooperative membership on the Cooperative's website of all compensation and benefits, by category, paid to or provided for board members, S.C. Code Ann. § 33-49-615(A)(8) requires this disclosure include as a separate category the total value of and a description of any goods or services required to be disclosed by section 33-49-630(C)(3). Section 33-49-630(C)(3) requires that trustees disclose to their boards the acceptance of any goods or services of more than \$25 in value that are furnished by a company of which the cooperative is not an owner or member that the trustee knows, has, or seeks a business relationship with the cooperative (other than a cooperative membership) which are not furnished on the same terms or at the same expense as to a member of the general public or to general attendees of functions. The Cooperative had a general note at the bottom of its 2020 compensation disclosure to the membership regarding the section 33-49-615(A)(8) disclosure. However, the note did not indicate to what line above it corresponded, and it was unclear whether there were any goods or services being disclosed under section 33-49-615(A)(8). The Cooperative clarified separately to ORS there were no goods or services required to be disclosed under section 33-49-615(A)(8). If there are no goods or services to be disclosed under section 33-49-615(A)(8), a clear statement to this effect should be included on the disclosure to the membership. Further, if in the future there are goods or services that need to be disclosed, a substantive description of the actual goods or services needs to be included on the disclosure, along with the total value.
3. In addition, S.C. Code Ann. § 33-49-615(A)(7) requires the compensation disclosure to the membership include as a separate category both the total value and a description of any other fringe benefits provided to board members. In the review letters ORS sent at the conclusion of the audit in 2020, ORS noted the descriptions many cooperatives provided were very limited, including the use of "Insurance premiums and other benefits" without further explanation. In its current audit, ORS noted

Letter – Newberry Electric Cooperative, inc.
Page 3 of 3
December 20, 2021

4. the Cooperative used “Insurance and Other Benefits” as the description in its 2020 disclosure without further information being provided in a footnote or elsewhere. To ensure greater transparency to
5. membership, ORS continues to recommend including a description of the types of insurance premiums paid (i.e., medical, dental, vision, life, cancer, etc.), if insurance is a benefit provided to board members. If fringe benefits other than or in addition to insurance are provided, ORS recommends a substantive description of those be included, also.
6. Further, nineteen out of twenty-two cooperatives audited by ORS provided the disclosures required under section 33-49-615 broken down by individual board members. Three 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,



David Herpel, CPA
ORS Audit Manager

cc: Christopher R. Koon, Esquire (via email)