Other views

Legislature's handling hurts Santee Cooper's standing

Politically motivated bill damages the utility's ratings and hits the Upstate in the pocketbook.

By Keith D. Munson

On May 3, Standard & Poor's, one of the country's leading rating agencies of business creditworthiness, downgraded Santee Cooper (South Carolina's state-owned electric utility) to "*Negative.*" The downgrade of Santee Cooper (which traditionally has enjoyed very favorable ratings from all three national rating agencies) was attributed to the pending Senate Bill 573, which passed the S.C. Senate last month and passed the S.C. House last week.

Standard & Poor's specifically complained about provisions that would change the current board membership and load the board with co-op representatives and other customer representatives, creating a "fox guarding the henhouse" situation. It is openly conceded that the motivation behind the bill is to undercut the governor's attempt to have Santee Cooper provide a better return to the people of South Carolina, as was contemplated when Santee Cooper was established 71 years ago.

Unfortunately, Standard & Poor's strong negative reaction only touches the tip of the iceberg of this Titanic legislation. In addition, Senate Bill 573 negatively impacts Santee Cooper in the following ways: 1) Defines the "best interests" of Santee Cooper (a state agency) in terms of the interests of the co-op, industrial and other customers; and 2) gives each customer, whether damaged or not, the right to sue any individual Santee Cooper board member for any alleged act inconsistent with running Santee Cooper for the benefit of the co-op, industrial or other customer, and allows for up to a $50,000 penalty from each of 11 board members, payable directly to the complaining customer, for each instance (plus attorney fees.)

GUEST COLUMN

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It is hard to believe that the same Legislature that just passed business and medical tort reform could even imagine this legislation. It will spawn endless nuisance lawsuits by competing customers jockeying to take personal advantage of Santee Cooper and will likely put Santee Cooper under constant court supervision. Because Santee Cooper will reimburse the liable directors (and pass the cost back to its ratepayers), it will in essence operate as a lottery, where many customers will pay an award to the customer who is quickest to file suit.

So how should Santee Cooper be governed? In 1934, the General Assembly passed legislation creating the South Carolina Public Service Authority (Santee Cooper). The State leveraged its quota of New Deal money to get federal assistance to build the Santee Cooper Hydroelectric Project "so that electricity could be provided for the rural areas of the state."

"In 1936, less than 2.5 percent of the farms in South Carolina had electricity." ("History of Santee Cooper 1934-1984" by Walter B. Edgar, p. 11). By 1944, more than 93 percent of South Carolina's rural residents had electrical power to light their homes. Today, Santee Cooper's original predominant purpose to provide access to electricity for South Carolina residents has been universally achieved.

Its remaining purpose included providing benefits to the state as a whole. When the General Assembly passed the enabling act to create Santee Cooper, it set up the state as the sole owner. Specifically, the act states, "The South Carolina Public Service Authority is a corporation, completed, owned by and to be operated for the benefit of the people of this State." (58-31-110, S.C. Code). Santee Cooper's tax-exempt status has been estimated to equate to approximately $50 million a year in lost tax revenue to the State of South Carolina. To make up for this, the General Assembly required Santee Cooper pay to the state, "all net earnings thereof not necessary or desirable for the prudent conduct and operation of its business ... to the State Treasurer for the general funds of the State and shall be used to reduce the tax burdens of the people of this State." (58-31-110, S.C. Code). For the past 25 years or so, the amount paid to the state has generally been limited to 1 percent of Santee Cooper's revenues (approximately $10 million).

This is significant to the Upstate because the burden of the lost tax revenue (about $40 million per year, or $1 billion since 1979) is generally shifted toward Greenville in order for the Lowcountry and coastal residents and businesses to enjoy cheaper electricity. Senate Bill 573, which virtually turns over Santee Cooper to the co-op, residential and commercial customers, will only magnify the fact that the state's largest single asset (assets valued at about $5 billion) is being increasingly co-opted toward the coast.

Greenville has been lamenting the pending loss of House Speaker David Wilkins as the champion of Upstate causes. Hopefully, Speaker Wilkins has the energy to champion one more cause for the Upstate and rally the local delegations in the House in order to block ratification of Senate Bill 573 and chart a course for demanding that Santee Cooper be more responsive to its shareholders — *all* the people of South Carolina.