

State Regulation of Public Utilities Review Committee

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MEMORANDUM

TO: The Honorable Jeff Gossett, South Carolina Senate

FROM: Senator Thomas C. Alexander, Chairman

DATE: May 17, 2016

RE: Screening of Candidates for Appointment to the Santee Cooper Board of Directors

The Governor submitted the names of the candidates shown below for the Senate's consideration for appointment to the Board of Directors of the South Carolina Public Service Authority (Santee Cooper). The appointments were referred to the Senate Judiciary Committee.

Fifth Congressional District Seat:	Alfred L. Reid, Jr.
Horry County Seat:	David F. Singleton
At-Large Seat:	Stephen H. Mudge

Pursuant to Section 58-3-530(14), the State Regulation of Public Utilities Review Committee (Review Committee) is charged with the duty "to review candidates for appointment to the South Carolina Public Service Authority Board of Directors as submitted by the Governor to determine whether the candidates meet the qualifications set forth in Section 58-31-20."

Section 58-31-20(C) provides that Santee Cooper directors "must possess abilities and experience that are generally found among directors of energy utilities serving this State and that

allow him to make valuable contributions to the conduct of the authority's business." These abilities include:

- (1) general knowledge of the history, purpose, and operations of the Public Service Authority and the responsibilities of being a director of the authority;
- (2) the ability to interpret legal and financial documents and information so as to further the activities and affairs of the Public Service Authority;
- (3) with the assistance of counsel, the ability to understand and apply federal and state laws, rules, and regulations including, but not limited to, Chapter 4 of Title 30 as they relate to the activities and affairs of the Public Service Authority; and
- (4) with the assistance of counsel, the ability to understand and apply judicial decisions as they relate to the activities and affairs of the Public Service Authority.

Additionally, pursuant to Section 58-31-20, directors representing the counties of Berkeley, Georgetown, and Horry must reside in those counties and be customers of Santee Cooper.

Section 58-31-55 requires that a Santee Cooper director must discharge his duties in good faith, with the care of an ordinarily prudent person and in a manner he reasonably believes to be in the best interests of Santee Cooper ("best interests" are determined by balancing three factors: customer interest, economic development of service area, and preservation of financial integrity of Santee Cooper). Directors are subject to personal liability for violating Section 58-31-55, and wholesale and retail customers of Santee Cooper (including indirect customers of Santee Cooper through electric cooperatives) are authorized to bring suit against any director alleging a breach of fiduciary duties.

A Board of Directors has a general duty to act in the best interests of a corporation. Such fiduciary duties include the duty of loyalty and the duty of care.¹ The duty of loyalty provides that directors and officers must remain loyal to the corporation, acting at all times in the best interests of the corporation and its shareholders whose interests must take precedence over any self-interest of the director, officer, or controlling shareholder that is not shared by the stockholders generally. The duty of loyalty includes the duty to avoid conflicts of interest and prohibit faithlessness and self-dealing. The duty of care requires a director to act in good faith and with the level of care of an ordinarily prudent person in similar circumstances.

The Santee Cooper Screening Subcommittee of the Review Committee sent Mr. Mudge a set of questions to elicit information with respect to his knowledge as an initial appointee of the operations of Santee Cooper, his knowledge of best practices for boards of directors, and his knowledge of the Freedom of Information Act (FOIA). The Subcommittee sent Mr. Reid and Mr. Singleton, candidates for reappointment, a set of questions tailored to a candidate who is a sitting

¹ In the typical corporate setting, these duties extend to the shareholders, as owners of the corporation. Santee Cooper, as a public utility, is a quasi-state agency; thus, the board owes duties not to shareholders, but to its customers and bondholders, as well as to the people of South Carolina by way of the people's elected representatives in the General Assembly and the Governor.

director. Mr. Mudge and Mr. Singleton appeared before the Subcommittee on May 12, 2016 and answered further questions from the Subcommittee on those issues and others. The transcript of the hearing is appended to this report by reference. The candidates' responses to the Subcommittee's written questions are included in the Subcommittee hearing transcript. The transcript is posted online at:

<http://www.scstatehouse.gov/CommitteeInfo/PublicUtilitiesReviewComm/2016SanteeCooperScreening.php>

Due to scheduling conflicts, Mr. Reid was unable to attend any screening meetings prior to the close of the legislative session.

The Review Committee met on May 17, 2016, to consider the Subcommittee's report and to make a determination regarding the qualifications of Mr. Mudge and Mr. Singleton.

DAVID F. SINGLETON
SANTEE COOPER BOARD OF DIRECTORS
SEAT: HORRY COUNTY
TERM: MAY 19, 2016 THROUGH MAY 19, 2023

Review Committee's Findings: Qualified

1) Constitutional and Statutory Qualifications

Mr. Singleton meets the general qualifications prescribed by law for service as a Director for Santee Cooper. Mr. Singleton is a resident of Myrtle Beach, South Carolina. He has been a resident of South Carolina for at least the immediate past five years and is a qualified elector of this State.

2) Educational Background

Mr. Singleton received a Bachelor of Arts degree from the University of South Carolina in 1984. He then received a Juris Doctor from the University of South Carolina School of Law in 1987. Mr. Singleton has been a member of the South Carolina Bar Association since 1987.

3) Ethical Fitness, Character, and Reputation

The Review Committee's investigation did not reveal any evidence of unethical conduct by Mr. Singleton and did not reveal evidence of any convictions or criminal allegations made against him. Mr. Singleton has good standing in his community as well as a personal history of sound business affairs.

4) Professional Experience and Training

Mr. Singleton is involved with a number of real estate companies. Since 1983, he has been a secretary and manager for Kingsland, Inc. From 1987 to the present, Mr. Singleton has served as the President of Singleton Properties, Inc. Since 2005, he has served as a managing member of Singleton Properties, Inc., Eastern Shores Realty Holdings, LLC, and Buckingham Realty Holdings LLC. From 2006, he has served as managing member of Columbus Farms Realty Holdings, LLC. From 1993 to 2005, he was involved in the operations of the Belle Terre Golf Course, a real estate development company and golf course complex.

Mr. Singleton has served on the Santee Cooper Board of Directors since 2011. He has also served on the Board of Directors for Coastal Educational Foundation, Inc. since 2000 and the South Carolina Power Team Board of Directors since 2014.

5) Statutory Requirements

Pursuant to Section 58-31-20(C), the Review Committee is required to determine if Mr. Singleton has:

- a) working knowledge of the activities and affairs of Santee Cooper;
- b) the ability to interpret legal and financial documents and information;
- c) with the assistance of counsel, the ability to understand and apply federal and state laws, rules, and regulations as they relate to Santee Cooper, including the Freedom of Information Act; and
- d) with the assistance of counsel, the ability to understand and apply judicial decisions as they relate to the activities and affairs of Santee Cooper.

Mr. Singleton's responses to written and oral questions reflect he has working knowledge of the operations and activities of Santee Cooper. He serves on the following Santee Cooper subcommittees: Property, Finance, Legal, Human Resources, and Executive-Corporate Planning Committee. His service with Senate Cooper indicates that not only does he meet the statutory qualifications to serve, but also his commitment to serve on the board.

6) Knowledge of Current Energy Issues

Mr. Singleton understands and appreciates the challenges faced by Santee Cooper. He discussed the issues facing Santee Cooper, including the difficulties in planning for future electric generation in a period of uncertain federal regulation and price shifts. *See Generally Tr. pgs. 6-13, 20*

Mr. Singleton also discussed the difficulties of balancing the costs incurred by Santee Cooper for regulatory changes with the ability of the consumers' to pay for those costs, including the importance of keeping rates as low as possible without shifting costs to other customers. Mr. Singleton stated that keeping rates as reasonable as possible is "one of the cornerstones of our charge and it's--it has to be balanced against reliability." *Tr. p. 13, lines 21-22.*

7) Knowledge of Santee Cooper's Other Roles

Mr. Singleton is knowledgeable about Santee Cooper's various roles, including economic development and lake management. He stated "Another charge is to be a good steward of the assets, and assets includes things such as 160,000 acres of lakes, 27,000 acres of woodlands and other assets beyond just the generation and transmission assets that most people think of when they think of Santee Cooper." *Tr. p. 9, lines 17-22.* He spoke about Santee Cooper's role in economic development. *See Tr. p. 16-19.* He mentioned the Volvo

plant in Berkeley County, and stated that “one of the most important assets that public power brings to the table in -- in South Carolina in particular is our charge to be proactive with economic development.” *See Tr. p. 16, lines 3-5.*

8) Independence

Mr. Singleton stated that as a director, his duty of loyalty “is regarding the company, the customers, the bond holders, and the state.” *Tr. p. 24, lines 20-22.*

Findings as to Overall Qualification

Mr. Singleton has been nominated to be reappointed as a director representing Horry County on the Board of Directors of Santee Cooper. The Review Committee believes Mr. Singleton possesses the depth of experience to enable him to continue be a successful member of the Santee Cooper Board of Directors and finds him qualified.

STEPHEN H. MUDGE
SANTEE COOPER BOARD OF DIRECTORS
SEAT: AT-LARGE
TERM: MAY 19, 2012 THROUGH MAY 19, 2019

Review Committee's Findings: Qualified

1) Constitutional and Statutory Qualifications

Mr. Mudge meets the general qualifications prescribed by law for service as a Director for Santee Cooper. Mr. Mudge is a resident of Clemson, South Carolina. He has been a resident of South Carolina for at least the immediate past five years and is a qualified elector of this State.

2) Educational Background

Mr. Mudge earned a Bachelor of Science from Clemson University in 1975, with a major in Agronomy and a minor in Business.

3) Ethical Fitness, Character, and Reputation

The Review Committee's investigation did not reveal any evidence of unethical conduct by Mr. Mudge and did not reveal evidence of any convictions or criminal allegations made against him. Mr. Mudge has good standing in his community as well as a personal history of sound business affairs.

4) Professional Experience and Training

Mr. Mudge is the co-founder, President, and CEO and Serrus Capital Partners, Inc., and the owner of Evergreen Associates. Both of these businesses began in 2009. Serrus manages eight real estate funds with investments in residential, hospitality, mixed-use and resort properties throughout the Carolinas. Serrus also owns and operates a real estate and property management company in Greenville, SC, and co-owns a hospitality management company in Asheville, NC. Evergreen Associates provides consulting services to residential, hospitality, mixed-use, and resort properties internationally. Mr. Mudge is also a co-owner of SALT Ventures, which was established in 2013. From 2004-2009, Mr. Mudge was the Executive Vice-President of Mixed-Use Development for Marriott International/The Ritz-Carlton Hotel Company in Bethesda, Maryland. In this role, he assisted in forming an internal development group for Marriott that focused on residential and mixed-use projects that could facilitate hotel projects for international development. During that time, Mr. Mudge also served as a member of Ritz-Carlton's Executive Committee, Marriott's Hotel Development Committee, Asset Management Advisory Committee, and Impairment Committee. From 2001-2004, Mr. Mudge was employed by Centex Destination Properties. He began as Division President, and later became the National Vice-President of Planning and Development. From 1998-2001, he was the Vice-

President for Medallist Golf Developments, where he managed planning, entitlements, development and construction. From 1994-1998, Mr. Mudge was the co-owner of Evergreen Development Company, in which he directed master plan updates, development and construction activities for Stillwater Resort (AL) and a community on Lake Wylie in Tega Cay. From 1991-1994, Mr. Mudge was the Real Estate Vice-President for New Heritage Carolina Corporation. From 1981-1991, he was employed by Viking Homes. From 1975-1981, Mr. Mudge worked in his family's farm and land clearing business.

Mr. Mudge currently holds a Real Estate Brokers License in North Carolina and South Carolina. He is also a member of the Urban Land Institute and National Association of Corporate Directors. He currently serves as the Vice-Chairman and Executive Committee Member of the South Carolina Jobs Economic Development Authority. He is also a board member of the Palmetto State Growth Fund, Inc. Mr. Mudge is a founding member of the Clemson University Advancement Board for Real Estate Development, which board supports Clemson's Masters of Real Estate program. Mr. Mudge has also served as an adjunct professor in this Masters program.

5) Statutory Requirements

Pursuant to Section 58-31-20(C), the Review Committee is required to determine if Mr. Mudge has:

- a) working knowledge of the activities and affairs of Santee Cooper;
- b) the ability to interpret legal and financial documents and information;
- c) with the assistance of counsel, the ability to understand and apply federal and state laws, rules, and regulations as they relate to Santee Cooper, including the Freedom of Information Act; and
- d) with the assistance of counsel, the ability to understand and apply judicial decisions as they relate to the activities and affairs of Santee Cooper.

Mr. Mudge's responses to written and oral questions reflect he has working knowledge of the operations and activities of Santee Cooper.

6) Knowledge of Current Energy Issues

Mr. Mudge understands and appreciates the challenges faced by Santee Cooper. He discussed the challenge of planning for future electric generation in a period of uncertain federal regulation and price shifts. He stated "You have to look at long-term projections and you have to balance--have a subplan to balance on the short term." *See Tr. p. 42, lines 12-14.* Mr. Mudge also understands and appreciates the importance of protecting Santee Cooper's financial integrity while maintaining low costs and fair rates for all customer classes. *See Generally Tr. pgs. 44- 47*

7) Knowledge of Santee Cooper's Other Roles

Mr. Mudge is knowledgeable about Santee Cooper's various roles, including economic development and its water services. As to economic development, Mr. Mudge stated he believed that Santee Cooper should "work closely with the state and counties and the governments to attract and help found industry, grow industries in our state to create jobs." *Tr. p. 48, lines 5-8.* Mr. Mudge also stated that Santee Cooper's responsibilities go beyond those of an investor-owned utility company.

An investor -owned utility company is out to serve its areas and to make money. Santee Cooper is trying to bring better pricing to its customers and help economic development and help the state...the other utilities want to be good corporate citizens too, but the fact is they're not responsible for economic development and don't have the same responsibilities.

Tr. p. 51, lines 12-20.

8) Independence

Mr. Mudge stated that as a director, his duty of loyalty is "to act in the best interest of Santee Cooper and use diligent reasonable care." *Tr. p. 57, lines 11-12*

Findings as to Overall Qualification

Mr. Mudge has been nominated to as an initial appointment as a director on the Board of Directors of Santee Cooper, At-Large seat. The Review Committee believes Mr. Mudge possesses the depth of experience to enable him to be a successful member of the Santee Cooper Board of Directors and finds him qualified.