

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: June 29, 2021

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

The Governor submitted the name of Mr. Peter M. McCoy, Jr for the Senate's consideration for appointment to the Board of Directors of the South Carolina Public Service Authority (Santee Cooper) for the Chairman, At-Large Seat. Mr. McCoy is being screened for an initial appointment that, pursuant to Act 90 of 2021, would terminate on January 1, 2022, and for an appointment for the subsequent four-year term that would terminate on January 1, 2026.

The Santee Cooper Board of Directors is comprised of twelve members¹ appointed by the Governor with the advice and consent of the Senate. The membership of the board of directors is as follows:

- 1 member from each congressional district;

¹ *There are two ex officio members that serve on the board in a non-voting capacity. One member is the Chairman of Central Electric Power Cooperative, or his designee, and the second member is a Central Electric Power Cooperative Board member who is chosen by Central's Board.

- 1 member from Horry County;
- 1 member from Berkeley County;
- 1 member from Georgetown County;
- 1 member from the State at-large who serves as chairman; and
- 1 member from the State at-large.

The directors representing the counties of Berkeley, Georgetown, and Horry must reside in those counties and be customers of Santee Cooper. No more than 2 members from the same county may serve as directors at any time. Two of the directors must have substantial work experience within the operations of electric cooperatives or on a cooperative board.

As of June 2021, directors must also have at least a baccalaureate degree and a background of substantial duration and expertise in at least one of the following:

- energy issues;
- consumer protection and advocacy issues;
- water and wastewater issues;
- finance, economics, and statistics;
- accounting;
- engineering; or
- law.

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)(1) 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.

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. The “best interests” of Santee Cooper are determined by balancing the following factors:

- (1) Santee Cooper’s financial integrity and its ongoing operations;

- (2) the interest of its customers, regardless of customer class, in reliable, adequate, efficient, and safe service, at just and reasonable rates;
- (3) the maintenance and preservation of its properties;
- (4) the support of economic development within its service area or areas served by a wholesale customer of Santee Cooper, so long as factors (1), (2), and (3) are met; and
- (5) good business practices, in accordance with applicable laws and regulations.

The Santee Cooper Screening Subcommittee of the Review Committee sent Mr. McCoy a set of questions to elicit information with respect to his respective knowledge as an initial appointee of the operations of Santee Cooper, knowledge of best practices for boards of directors, and knowledge of the Freedom of Information Act (FOIA). Mr. McCoy appeared before the Subcommittee on May 26, 2021, and answered further questions from the Subcommittee on those issues and others. The transcript of this hearing is appended to this report by reference. Mr. McCoy's responses to the Subcommittee's written questions are included in the Subcommittee hearing transcript. The transcript is posted online at: <https://www.scstatehouse.gov/CommitteeInfo/PublicUtilitiesReviewComm/2021SanteeCooperScreening.php>

The Review Committee met on June 28, 2021, to further question Mr. McCoy and to make a determination regarding his qualifications.

PETER M. MCCOY, JR.
SANTEE COOPER BOARD OF DIRECTORS
SEAT: CHAIRMAN, AT-LARGE SEAT
TERM: INITIAL APPOINTMENT: TERMINATES JANUARY 1, 2022
RE-APPOINTMENT: JANUARY 2, 2022 - JANUARY 1, 2026

Review Committee’s Findings: Qualified

1) Constitutional and Statutory Qualifications

Mr. McCoy meets the general qualifications prescribed by law for service as a Director for Santee Cooper. Mr. McCoy is a resident of Charleston, 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. McCoy obtained a Bachelor of Arts degree from Hampden-Sydney College in 2001. He obtained his J.D. from Regent University School of Law in 2005.

Mr. McCoy meets the education requirement pursuant to Act 90 of 2021.

3) Ethical Fitness and Character

The Review Committee’s investigation did not reveal any evidence of unethical conduct by Mr. McCoy and did not reveal evidence of any convictions or criminal allegations made against him.

4) Professional Experience and Training

Mr. McCoy is the owner/managing partner of McCoy Law Group, LLC, which was established in March of 2021. From March 2020-March 2021, he served as the U.S. Attorney for South Carolina. From August 2011-March 2020, he was a partner in McCoy & Stokes, LLC. From 2010-2011, he worked at the Law Office of Peter M. McCoy, Jr. From 2005-2010, he served as assistant solicitor with the Ninth Circuit Solicitor’s Office.

Mr. McCoy served in the S.C. House of Representatives from 2010-2020; he resigned from the House on March 30, 2020, in order to begin his service as the U.S. Attorney for the District of South Carolina.

5) Statutory Requirements

Pursuant to Section 58-31-20(C)(1), the Review Committee is required to determine if Mr. McCoy 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. McCoy's responses to written and oral questions reflect he has working knowledge of the operations and activities of Santee Cooper.

Pursuant to Section 58-31-20(C)(2)(b), a board member must have a background of substantial duration and an expertise in at least one of the following:

- (1) energy issues;
- (2) consumer protection and advocacy issues;
- (3) water and wastewater issues;
- (4) finance, economics, and statistics;
- (5) accounting;
- (6) engineering; or
- (7) law.

Mr. McCoy possesses a background of substantial duration and an expertise in law, as exhibited from his professional experience and training. During the Review Committee meeting, Mr. McCoy described his experience in energy issues while he was a Representative, including his service on the House of Representatives' Ratepayer Protection Committee, and his experience with energy-related legislation. Mr. McCoy also described investigative experience with cases related to the V.C. Summer nuclear construction during his service as the U.S. Attorney for South Carolina.

6) Knowledge of Current Energy Issues

Mr. McCoy's responses to written and oral questions reflect that he understands various electric issues in South Carolina, such as electric generation resources and environmental considerations. His responses also reflect that he understands and appreciates various issues and challenges that are specific to Santee Cooper, including, but not limited to, customer interests, Santee Cooper's financial integrity, and concerns resulting from the decision to abandon construction at V.C. Summer Nuclear Reactor Units 2 & 3. *See Generally Tr. pgs. 12-13; 19-28; 47-50.*

7) Knowledge of Santee Cooper's Other Roles

Mr. McCoy's responses to written and oral questions reflect that he is knowledgeable about Santee Cooper's various roles, such as economic development and its water system. *See Generally Tr. pgs. 22-23; 30-31*

8) Independence

Mr. McCoy stated that as chairman, "...I have a statutory duty for this role to come first and to put the interest of Santee Cooper first."

Tr. pg. 42, lines 7-9.

Findings as to Overall Qualification

Mr. McCoy has been nominated for initial appointment and reappointment as Chairman of the Board of Directors of Santee Cooper. The Review Committee believes Mr. McCoy possesses the statutory qualifications and has depth of experience to serve on the Santee Cooper Board of Directors and finds him qualified.