

## *State Regulation of Public Utilities Review Committee*

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*Rep. Jackie E. Hayes*  
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*Helen T. Zeigler, Esquire*



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### **MEMORANDUM**

TO: Members of the General Assembly

FROM: Thomas C. Alexander

DATE: November 9, 2015

RE: Evaluations of the South Carolina Public Service Commission, Members of the South Carolina Public Service Commission, Office of Regulatory Staff, and Executive Director of the Office of Regulatory Staff

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Pursuant to §58-3-530(3), (4), (6), (7), and (8), the Review Committee is required to evaluate the Public Service Commission (the Commission), the members of the Commission, the Office of Regulatory Staff (ORS), and the Executive Director of the ORS on an annual basis and submit the evaluations to the General Assembly. Pursuant to §58-3-530(15), the Review Committee is required to review the state energy action plan of the State Energy Office, which as of July 1, 2015, is part of the ORS. Enclosed are the Review Committee's evaluations and review. Below we discuss the Review Committee's process for evaluating the agencies, the commissioners, the Executive Director of ORS, and the state energy action plan.

### **EVALUATION OF THE PUBLIC SERVICE COMMISSION**

The Review Committee adopted goals and objectives for the Commission for the review period with input from the Commission. Subsequent to the review period, the Commission provided to the

Review Committee a written report of its activities during the review period as they relate to those goals and objectives. Utilizing that report, the Commission's Accountability Report, and information provided to the Review Committee throughout the review period, the Review Committee evaluated the actions of the Commission. The Review Committee finds that the Commission fulfilled all of the goals and objectives established in the evaluation document, as reflected in the Review Committee's attached detailed evaluation of the Commission.

## **EVALUATION OF MEMBERS OF THE PUBLIC SERVICE COMMISSION**

In order to evaluate the commissioners, the Review Committee sent a questionnaire to the commissioners requesting the following information:

- educational programs attended, sponsoring organizations, certificates or recognition received, a description of the topics, a summary of benefit to the Commission, and how the program benefited the commissioner;
- professional organizations the commissioner is involved in, positions held, committees served on, descriptions of organizations' functions. Explanation of the benefits of participation to the Commission, to the commissioner, and to the State of South Carolina (e.g., government, consumers, regulated utilities);
- events attended in the commissioner's official capacity, the sponsoring organizations, and descriptions of the activity (if speech or panel discussions, description of the topic);
- notable cases in which the commissioner took an active role, including the case name, the docket number, and a brief summary of the deliberations and decision;
- greatest accomplishments of the commissioner during the review period;
- the commissioner's most significant accomplishments as a commissioner during the review period; and
- areas where there is room for improvement and an explanation as to how the commissioner will take advantage of any opportunities for improvement.

The Review Committee also sent a survey to persons appearing before the Commission and to Commission employees in accordance with Section 58-3-530(5). The survey solicited information to determine whether the commissioner exhibited the qualities necessary to be an effective hearing officer and decisionmaker:

- the commissioner's understanding and communication of the goals and mission of the Commission;
- the commissioner's familiarity and knowledge of public utility law;
- the commissioner's desire to increase his or her knowledge and skills;
- the commissioner's treatment of persons appearing before the commissioner;
- the commissioner's influence on employee morale and performance;
- the commissioner's adherence to applicable ethical standards; and
- the commissioner's assurance that hearings were conducted under dignified and orderly procedures.

Because the chairman of the Commission is also the chief executive and administrative officer, the Review Committee also solicited input from persons appearing before the Commission and

Commission employees as to the effectiveness of the chairman's leadership and management of the Commission. The Review Committee's assessment of each commissioner's performance during the review period is attached.

### **EVALUATION OF THE OFFICE OF REGULATORY STAFF**

The Review Committee adopted goals and objectives for the ORS with input from the ORS. Subsequent to the review period, the ORS provided to the Review Committee a written report of its activities as they relate to those goals and objectives. Utilizing that report, the ORS's Accountability Report, and information provided throughout the review period, the Review Committee evaluated the actions of the ORS. The Review Committee finds that the ORS fulfilled all of the goals and objectives established in the evaluation document, as reflected in the Review Committee's attached detailed evaluation.

### **EVALUATION OF THE EXECUTIVE DIRECTOR OF THE OFFICE OF REGULATORY STAFF**

In order to fulfill its duty to evaluate the performance of the Executive Director, the Review Committee sent a questionnaire to the Executive Director requesting the following information:

- educational programs attended, sponsoring organizations, certificates or recognition received, a description of the topics, and how the program benefited the ORS;
- professional organizations the Executive Director is involved in, positions held, committees served on, and descriptions of organizations' functions. Explanation of the benefits of participation to the ORS, to the Executive Director, and to the State of South Carolina (e.g., government, consumers, regulated utilities);
- events attended in the Executive Director's official capacity, the sponsoring organizations, and descriptions of the activity (if speech or panel discussions, describe the topic);
- notable cases in which the Executive Director took an active role, including the case name, the docket number, and a brief summary of the deliberations, and the decision;
- greatest accomplishments of the ORS during the review period;
- the Executive Director's most significant accomplishments as the Executive Director during the review period; and
- areas where there is room for improvement and an explanation as to how the Executive Director will take advantage of any opportunities for improvement.

Additionally, the Review Committee sent a survey to ORS employees and persons who interacted with the Executive Director, seeking their opinions with respect to the Executive Director's knowledge of public utility issues, his adherence to ethical constraints, his treatment of persons who interacted with him, his effect on employee morale, and his understanding of the goals and mission of the agency. The Review Committee's assessment of the Executive Director's performance during the review period is attached.

## **REVIEW OF THE STATE ENERGY ACTION PLAN OF THE STATE ENERGY OFFICE**

Pursuant to §58-3-530(15), the Review Committee is required to review the state energy action plan of the State Energy Office. The State Energy Office was transferred to the ORS on July 1, 2015. Since that time, the ORS and the State Energy Office personnel have worked to become familiar with each respective entity. The ORS is in the process of reviewing the overall status of the state's energy needs and plans to revise what will be submitted in the future as an energy plan for the entire state. This plan will likely include information regarding what energy is generated in South Carolina, what South Carolina needs, and a general plan that looks forward for the next 5 to 10 years.

If you have any questions, please contact Heather Anderson at (803) 212-6208.

**2014-2015 Public Service Commission Strategic Planning  
Evaluation Period July 1, 2014 - June 30, 2015**

**MISSION**

The Public Service Commission serves the public by providing open and effective regulation and adjudication of the state's public utilities, through consistent administration of the law and the regulatory process.

**GOALS**

To carry out its mission, the Commission should be EFFECTIVE, ENGAGED, and ENTERPRISING in its operations, regulations, communications, and technology.

**EFFECTIVE**

In order for the Commission to serve the public interest, it must consistently provide timely and effective regulation of investor-owned utilities.

**1. The Commission continuously identifies opportunities to improve the Agency's adjudicative process.**

- ✓ The Commission received approval to serve its notices, prefile testimony letters, transmittal letters, and other documents referencing a hearing date using the Docket Management System's (DMS) eService System.
- ✓ The Commission amended Regulations 103-811 and 103-817, which dealt with Commission make-up (repealed) and allowing electronic service to parties for certain matters.

**2. The Commission uses technology to increase its effectiveness.**

- ✓ The Commission continued to market its eService System to transportation carriers, which included amending its transportation application.
- ✓ The Commission improved the effectiveness of the eService System to ensure its integrity by calling users who had not accepted an Order within three days after its issuance.
- ✓ The Commission continued to use its Twitter account to communicate with the public regarding matters and events at the Commission, including analyzing its accounts to see what types of posts provide the most influence to its followers.

- ✓ The Commission added 927 orders and directive orders to its Order Index System.
  - ✓ The Commission investigated the implementation of a smartphone application for filings and reporting.
  - ✓ The Commission monitored its website and DMS activity through Google Analytics, which allowed the Commission to tailor its approach to news and website postings to matters that interest stakeholders the most.
  - ✓ The Commission completed the migration of its Information Technology and server needs to the Division of Technology Operations (DTO).
3. **The Commissioners and Staff completed a cyber-security awareness training, and an Information Technology/Information Security Plan was implemented for the agency.**
  4. **The Commission increased transparency by providing video streaming services for two of its hearings in the Distributed Energy Resource Program docket due to the public’s interest.**
  5. **The Commission reconfigured its DMS to a “.net” platform to enhance its security.**

<b>ENGAGED</b>
In order for the Commission to serve the public interest, it must be <b>ENGAGED</b> in its analysis of the issues before it.

1. **The Commission staff provided expert support to the commissioners through analysis and collaboration.**
  - ✓ The Commission hosted several in-house educational seminars on regulatory topics, including a briefing on the Distributed Energy Resource Program Act, as well as settlements and due process conducted by the National Judicial College.
  - ✓ The Commission maintains a database of technical and legal research for reference material, which now contains 137 items (not including archived items) originating from past working documents and presentations.
  - ✓ Commission staff prepared for proceedings by analyzing technical information from industry blogs and providing updates to Commissioners.
  - ✓ Commission staff provided weekly updates to Commissioners regarding matters before the Commission.
2. **The Commission strictly adhered to state ethics laws and the Code of Judicial Conduct.**
  - ✓ The Commission conducted its annual ethics training for commissioners and staff. The Commission invited judges affiliated with the National Judicial College to conduct the training.

- ✓ The Commission provided commissioners and staff regular updates on ethics through its publication of the *PSC Ethics Watch*. The newsletter contains articles of interest pertaining to ethics, such as reports of ethical violations and selected judicial advisory opinions.
- ✓ The Commission responded to ethical issues throughout the year and provided guidance and training when necessary.

<b>ENTERPRISING</b>
The Commission's activities must be ENTERPRISING.

**1. The Commission surveyed its stakeholders (attorneys, utilities, and consumers) to determine whether regulatory needs were being met and where improvements could be made.**

- ✓ As a result from a survey of the Advisory Committee, the Commission began calling users if they had not accepted an order through the eService System within three days.
- ✓ The Commission is currently reviewing responses to its recent survey to stakeholders.

**2. The Commission monitored developments on the federal level affecting South Carolina's regulatory process and drafted appropriate responses, when necessary.**

- ✓ Members of the Commission reviewed public sources and notices provided by associations, such as NARUC, the Nuclear Energy Institute, and the Nuclear Waste Strategy Coalition.
- ✓ Commissioners and staff stayed up to date on federal utility regulatory issues through participation in webinars and teleconferences. They also attended seminars, conferences, and workshops that addressed emerging issues within the regulatory arena.
- ✓ The Commission held a working meeting with stakeholders for input to improve the Commission's operation. An Advisory Committee meeting was held to discuss: DMS reconfiguration and an application for smartphones, and administrative questions regarding electronic filings.

**3. Commissioners and Staff were active in professional organizations and utilized an effective public information program.**

- ✓ Members of the Commission actively participated in NARUC, SEARUC, NRRI and other national organizations. Commission members also served in leadership positions within national organizations.
- ✓ The Commission reported agency news and relevant industry news through the Commission's website, its newsletter, and press releases.

- ✓ The Commission's newsletter, *PSCNews*, was distributed in electronic or hardcopy format to members of the General Assembly, PURC, the Commission's Advisory Committee, and certified motor vehicle carriers who recently engaged in the regulatory process before the Commission. In addition, copies of the Commission's in-house newsletters on ethics and wellness-and-agency news were distributed to members of PURC.

**4. The Commission supported initiatives to balance community and professional development activities.**

- ✓ The Commission recognized and supported employee involvement in community activities, as well as encouraged activities that promote a healthy lifestyle. Some of the beneficiaries of the community service included Meals on Wheels, Palmetto Foundation's Breast Cancer Center, and the American Heart Association.
- ✓ The Commission recognized and supported its employees' community involvement by featuring articles in its *Wellness and Agency Newsletter*.
- ✓ The Commission encouraged its workforce to maintain healthy lifestyles by providing opportunities that promoted wellness and increased awareness of the importance of living a healthy lifestyle. The Commission has a prevention and wellness program in place to educate its workforce on good health practices for the home and workplace.
- ✓ The Commission continued its effort to recognize outstanding performance of its employees by implementing a Team Member of the Year Award.

STATE REGULATION OF PUBLIC UTILITIES REVIEW COMMITTEE  
PERFORMANCE EVALUATION

**John E. “Butch” Howard**  
**South Carolina Public Service Commission**  
Seat: First Congressional District  
Review Period: July 1, 2014 - June 30, 2015

Commissioner Howard was initially elected to the Commission on March 3, 2004 and was reelected on May 1, 2013. During his tenure, he has taken advantage of many opportunities to expand his understanding of public utilities issues. Commissioner Howard is an active member of NARUC and SEARUC; he serves on the following NARUC committees: Education and Research Subcommittee (vice-chair), Clean Coal Committee, and the Water Committee. As a member of the Education and Research Subcommittee, he serves as the liaison between NARUC and Michigan State for their rate schools. He is a member of the New Mexico State University Current Issues Advisory Council, which develops the curriculum for the Current Issues Forum. Commissioner Howard also serves as a member of the Water Research Foundation Public Advisory Board and on the Office of Homeland Security’s Government Coordinating Council - Water Sector as a NARUC representative.

Commissioner Howard exhibits a desire to increase his knowledge and skills by attending educational programs and seminars. He attended the following educational programs and events:

- NARUC meetings (summer, annual, and winter);
- SEARUC annual meeting and Commissioners Only Conference;
- NAWC Water Policy Forum;
- Emerging Issues Policy Forum;
- Critical Consumer Issues Forum;
- ACLP of the New York School of Law, which meets annually to discuss current utility issues and the impact these issues and related actions would have on states;
- EUCI Southern Clean Power Conference, during which he spoke about the implementation of Act 236;
- New England Conference of Regulatory Utility Commissioners, during which he moderated a panel on state water plans;
- Two sessions of the rate schools for NARUC and Michigan State;
- Various training sessions, including statutorily required ethics training.

Based on surveys of persons appearing before the Commission and commission employees, Commissioner Howard is courteous to all persons appearing before him, is impartial in his treatment of persons appearing before him, has a positive effect on employee morale, and is respected by attorneys and persons appearing before the Commission. The Review Committee's review revealed no evidence of unethical behavior by Commissioner Howard.

**State Regulation of Public Utilities Review Committee**  
PERFORMANCE EVALUATION

**Elliott F. Elam, Jr.**  
**South Carolina Public Service Commission**  
Seat: Second Congressional District  
Review Period: July 1, 2014 - June 30, 2015

Commissioner Elam was initially elected to the Public Service Commission on May 28, 2014. During his first year at the Commission, he has taken advantage of many opportunities to expand his understanding of public utilities issues. Commissioner Elam is a member of NARUC and SEARUC. He is a member of the NARUC Committee on Telecommunications and was appointed by the Federal Communications Commission to serve on the Federal-State Joint Conference on Advanced Telecommunications. He is also a member of the South Carolina Bar's Administrative and Regulatory Law Committee.

During the review period, Commissioner Elam attended the following educational programs and events:

- NARUC meetings (summer, annual, and winter);
- NARUC Annual Regulatory Studies Program;
- SEARUC Commissioners Only Summit;
- SEARUC annual meeting;
- Various training sessions and workshops, including allowable ex parte briefings and statutorily required sessions on ethics.

Based on surveys of persons appearing before the Commission and commission employees, Commissioner Elam is courteous to all persons appearing before him, is impartial in his treatment of persons appearing before him, has a positive influence on employee morale, and is respected by attorneys and persons appearing before the Commission. The Review Committee's review revealed no evidence of unethical behavior by Commissioner Elam.

STATE REGULATION OF PUBLIC UTILITIES REVIEW COMMITTEE  
PERFORMANCE EVALUATION

**Comer "Randy" Randall, III**  
**South Carolina Public Service Commission**  
Seat: Third Congressional District  
Review Period: July 1, 2014 - June 30, 2015

Commissioner Randall was initially elected on May 1, 2013. During his tenure, he has taken advantage of many opportunities to expand his understanding of public utilities issues. During the review period, Commissioner Randall was an active member of NARUC and SEARUC. He serves on the NARUC Committee on Water and the Subcommittee on Nuclear Issues - Waste Disposal.

Commissioner Randall attended various educational programs and events during this review period, including:

- NARUC meetings (summer, annual, and winter);
- Camp NARUC, during which he received a certificate of completion for the advanced studies program;
- NARUC Grid School;
- SEARUC Commissioners Only Summit;
- SEARUC Annual Meeting, during which he participated on a panel on water issues;
- National Association of Water Companies (NAWC) National Water Summit, during which he gave a presentation on water issues relevant to South Carolina;
- Emerging Issues Policy Forum, during which he gave a presentation on electricity issues;
- NAWC Commissioners Water Policy Forum, during which he served on a panel regarding water issues;
- Courses towards a Certificate of Continuing Regulatory Education;
- Various training sessions and workshops, including statutorily required sessions on ethics.

Based on surveys of persons appearing before the Commission and commission employees, Commissioner Randall is courteous to all persons appearing before him, is impartial in his treatment of persons appearing before him, has a positive influence on employee morale, and is respected by attorneys and persons appearing before the Commission. The Review Committee's review revealed no evidence of unethical behavior by Commissioner Randall.

STATE REGULATION OF PUBLIC UTILITIES REVIEW COMMITTEE  
PERFORMANCE EVALUATION

**Elizabeth “Lib” Fleming**  
**South Carolina Public Service Commission**  
Seat: Fourth Congressional District  
Review Period: July 1, 2014 - June 30, 2015

Commissioner Fleming was initially elected March 3, 2004, and was most recently reelected May 28, 2014. During her tenure, she has taken advantage of many opportunities to expand her understanding of public utilities issues. She is an active member of NARUC and SEARUC. Commissioner Fleming is a member of the NARUC Committee on Critical Infrastructure, Committee on Electricity, and Committee on International Relations. She serves on the Eastern Interconnection States Planning Council (EISPC), which she currently chairs, and the EISPC Sector Steering Council. She is also the vice-chair of the New Mexico State University Center for Public Utility Advisory Committee. She also serves as a board member for the National Regulatory Research Institute and on its Investment Committee.

Commissioner Fleming exhibits a desire to increase her knowledge and skills by attending educational programs. She attended various educational programs and events during this review period, including:

- NARUC Winter Meeting;
- Women’s Emerging Issues Policy Forum;
- Emerging Issues Policy Forum, during which she participated on a panel concerning the EPA Clean Power Plan;
- Current Issues 2015, during which she participated on a panel regarding the Regulatory Compact;
- Critical Consumer Issues Forum;
- Federal Energy Regulatory Commission (FERC) Technical Conference on Environmental Regulations, Electric Reliability and Energy Infrastructure, during which she spoke to FERC Commissioners regarding the EPA’s proposed Clean Power Plan and its potential impact on SC;
- Various ex parte briefings and workshops, including statutorily required sessions on ethics.

Based on surveys of persons appearing before the Commission and commission employees, Commissioner Fleming is courteous to all persons appearing before her, is impartial in her treatment of persons appearing before her, has a positive influence on employee morale, and is respected by attorneys and persons appearing before the Commission. The Review Committee's review revealed no evidence of unethical behavior by Commissioner Fleming.

STATE REGULATION OF PUBLIC UTILITIES REVIEW COMMITTEE  
PERFORMANCE EVALUATION

**Swain E. Whitfield**  
**South Carolina Public Service Commission**  
Seat: Fifth Congressional District  
Review Period: July 1, 2014 - June 30, 2015

Commissioner Whitfield was initially elected on July 1, 2008 and was reelected on May 1, 2013. During his tenure, he has taken advantage of many opportunities to expand his understanding of public utilities issues. He is an active member of NARUC and SEARUC. He is vice-chairman of the NARUC Committee on Critical Infrastructure. He is also a member of NARUC's Washington Action Committee, Committee on Gas and Nuclear Issues and Waste Disposal subcommittee. Commissioner Whitfield serves as vice-chair on the Gas Technology Institute Advisory Board (GTI). He was elected as SEARUC's Second Vice-President in June, 2015. Commissioner Whitfield served as the PSC's vice-chair during the review period.

Commissioner Whitfield exhibits a desire to increase his knowledge and skills by attending educational programs. He attended various educational programs and events during this review period, including:

- NARUC meetings (summer, annual, and winter);
- SEARUC Summit and Annual Meeting;
- Certificate of Continuing Regulatory Education (Tier 1) received from the Institute of Public Utilities at Michigan State University;
- GTI Advisory Board meeting;
- Piedmont Municipal Power Agency Power Conference, where he was a keynote speaker;
- Emerging Issues Policy Forum, during which he served on a panel regarding EPA Greenhouse Gas Rules and carbon regulations;
- Wall Street Dialogue;
- Natural Gas Symposium;
- Winnsboro Rotary Club, at which he spoke about the PSC and gave an update on energy issues and the pending EPA regulations;
- Various ex parte briefings, forums and seminars, including statutorily required sessions on ethics.

Based on surveys of persons appearing before the Commission and commission employees, Commissioner Whitfield is courteous to all persons appearing before him, is impartial in his treatment of persons appearing before him, has a positive influence on employee morale, and is respected by attorneys and persons appearing before the Commission. The Review Committee's review revealed no evidence of unethical behavior by Commissioner Whitfield.

STATE REGULATION OF PUBLIC UTILITIES REVIEW COMMITTEE  
PERFORMANCE EVALUATION

**Nikiya "Nikki" Hall**  
**South Carolina Public Service Commission**  
Seat: Sixth Congressional District  
Review Period: July 1, 2014 - June 30, 2015

Chairman Hall was initially elected to the Commission on May 19, 2010 and was reelected on May 28, 2014. Chairman Hall served as the Chair of the Public Service Commission during the review period. She is an active member of NARUC and SEARUC. Chairman Hall is the chair of the NARUC's Utility Market Access Committee, and as a result of her position as chair for this committee, serves on NARUC's Board of Directors. In addition, Chairman Hall is a member on NARUC's Electricity Committee. She is also a member of the Washington Action Subcommittee and the Nuclear Waste Strategy Coalition. Chairman Hall has taken advantage of many opportunities to expand her understanding of public utilities issues.

Chairman Hall exhibits a desire to increase her knowledge and skills by attending educational programs. She attended various educational programs and events during this review period, including:

- NARUC meetings (summer, annual, and winter);
- Women's Energy Summit;
- Emerging Issues Policy Forum;
- Energy Policy Leadership Summit;
- National Association of Water Companies Water Summit, on which she served as a panelist regarding small and large water companies in the Southeast;
- SC Energy Users Meeting, during which she gave an overview of the PSC;
- SEARUC Annual Meeting;
- Various ex parte briefings and workshops, including statutorily required sessions on ethics.

Based on surveys of persons appearing before the Commission and commission employees, Chairman Hall is courteous to all persons appearing before her, is impartial in her treatment of persons appearing before her, has a positive influence on employee morale, and is respected by attorneys and persons appearing before the Commission. The Review Committee's review revealed no evidence of unethical behavior by Chairman Hall.

STATE REGULATION OF PUBLIC UTILITIES REVIEW COMMITTEE  
PERFORMANCE EVALUATION

**G. O'Neal Hamilton**  
**South Carolina Public Service Commission**  
Seat: Seventh Congressional District  
Review Period: July 1, 2014 - June 30, 2015

Commissioner Hamilton was initially elected on March 3, 2004, and was reelected on May 1, 2013. Commissioner Hamilton is an active member of NARUC and SEARUC. He is a member of the NARUC Board of Directors and is an advisor to the NARUC Gas Committee. He is a member of NARUC's Committee on Telecommunications and the subcommittee on Nuclear Issues and Waste Disposal. Commissioner Hamilton is a member of the North American Numbering Council. During his tenure, he has taken advantage of many opportunities to expand his understanding of public utilities issues.

Commissioner Hamilton exhibits a desire to increase his knowledge and skills by attending educational programs. He attended various educational programs and events during this review period, including:

- NARUC meetings (summer, annual, and winter);
- SEARUC Summit;
- Critical Consumer Issues Forum Summit;
- Emerging Issues Policy Forum;
- Various ex parte briefings and workshops, including statutorily required sessions on ethics.

Based on surveys of persons appearing before the Commission and commission employees, Commissioner Hamilton is courteous to all persons appearing before him, is impartial in his treatment of persons appearing before him, has a positive influence on employee morale, and is respected by attorneys and persons appearing before the Commission. The Review Committee's review revealed no evidence of unethical behavior by Commissioner Hamilton.

## EXHIBIT C

### STATE REGULATION OF PUBLIC UTILITIES REVIEW COMMITTEE PERFORMANCE EVALUATION

AGENCY: South Carolina Office of Regulatory Staff

PERIOD: July 1, 2014 - June 30, 2015

MISSION: The Office of Regulatory Staff ("ORS") represents the public's interest in utility regulation by balancing the concerns of the using and consuming public, the financial integrity of public utilities, and the economic development of South Carolina.

#### ORS MISSION

THE ORS REPRESENTS THE PUBLIC INTEREST BY BALANCING THE CONCERNS OF THE USING AND CONSUMING PUBLIC, THE FINANCIAL INTEGRITY OF PUBLIC UTILITIES, AND THE ECONOMIC DEVELOPMENT OF SOUTH CAROLINA.

#### GOAL:

THE ORS IS RESPONSIVE TO THE PUBLIC.

#### A. OBJECTIVES/ACTION ITEMS

- ✓ The ORS resolves consumer complaints in a timely manner.
- ✓ The ORS provides technical regulatory assistance to public utilities.
- ✓ The ORS solicits public input on emerging issues.
- ✓ The ORS optimizes consumer education and outreach efforts by publishing brochures, fliers, and booklets and by communicating consumer-oriented information and news via its web site and participation in public forums.
- ✓ The ORS provides press releases and alerts to media when newsworthy matters involving public utilities arise.
- ✓ The ORS responds to requests for assistance from the Governor, legislators, and others.

#### Comments:

*The Office of Regulatory Staff accomplished all of the objectives and action items listed above. The ORS continued to be very responsive to the public in FY 14-15 and maintained its helpful presence in both traditional mainstream media and on the ORS website. The ORS processed approximately 2,517*

complaints and inquiries, and saved consumers approximately \$224,376. Three annually recurring savings are included in this total. The ORS worked with consumers and utilities to recover funds due to erroneous charges, refunds of deposits, unauthorized charges, incorrect rates being charged, or disputes about the charges. The agency assisted consumers who were challenged by winter heating and summer cooling costs by helping to establish favorable deposit terms, payment extensions, and payment arrangements with utilities. The ORS sponsored several outreach activities during National Consumer Protection week in coordination with the SC Department of Consumer Affairs, the Lions Club, and the Richland County Library. The events educated consumers about their basic rights related to investor-owned utility companies. The agency responded to an increasing number of complaints as consumers utilize new entrants into the Household Goods (HHG) carriers' market or HHG movers cut corners to meet high demand, up from 126 complaints in FY 2013-14 to 227 in FY 2014-15. The ORS distributed over 33,000 printed educational materials on a variety of consumer-education topics within the utility regulation field. In February 2015, a winter storm and low temperatures threatened SC and kept the ORS EMD (Emergency Management Division) team on alert. The ORS worked closely with investor-owned electric utilities, the electric cooperatives, the SC Emergency Management Division, the SC Association of Municipal Power Systems, and the Governor's office in responding to power outages and restoring power as quickly as possible. The agency also participated and took a lead role in emergency preparedness events leading up to the Governor's full-scale hurricane exercise in May 2015. The ORS continued to benefit individuals who were victims of domestic violence, waiving the initial credit and deposit requirements for 13 individuals. The Pipeline Safety Department continued its record of excellence, sharing best practices at conferences, such as the Southern Gas Association, Carolina Public Gas Association, and the National Association of Pipeline Safety Representatives conferences. The agency promoted national "Call Before You Dig Month," a campaign designed to promote awareness of safe digging and damage prevention with regard to buried utility facilities. The ORS co-hosted a Water and Wastewater Workshop with the PSC, where ORS staff members provided valuable information to company representatives on trends in the water and wastewater regulatory arena as well as compliance issues. The ORS also hosted an educational forum for transportation carriers, with 60 representatives of fifty HHG movers in attendance. The theme was "Change, Challenge, and Opportunity" with topics focused on best practices in the HHG industry. The agency gained certification in Operation Lifesaver to give presentations to schoolchildren and other groups regarding safety at railroad crossings. The ORS attended community meetings and public hearings to gain consumer input on proposed utility rate increases and service issues. The ORS followed a policy of accessibility and responsiveness to all stakeholder groups, responding to 81 requests from state lawmakers and 167 requests from the media. In sum, the agency once again continued to be one of the most responsive agencies in state government during FY 14-15.

**GOAL:**

**THE ORS PROMOTES EXCELLENCE IN EACH REGULATED INDUSTRY.**

**B. OBJECTIVES/ACTION ITEMS**

- ✓ The ORS analyzes and evaluates the performance of public utilities.

- ✓ The ORS equitably enforces the laws, rules, and regulations relating to public utilities.
- ✓ The ORS minimizes the regulatory burden on public utilities by providing technical assistance, streamlining processes, and communicating expectations.

Comments:

*The Office of Regulatory Staff accomplished all of the objectives and action items listed above. The ORS conducted a total of 16 Customer Relations Compliance Reviews (CRCRs) of utility companies, conducted 5,523 vehicle inspections, conducted 340 regulatory reviews and audits, and conducted DIMP (Distribution Integrity Management Program) inspections in several locations around the State, and completed all 17 inspections before the federally mandated deadline of December 31, 2014. The agency achieved 96% compliance in Water/Wastewater utilities' submission of annual reports, and achieved 98% compliance of water/wastewater performance bond compliance. The ORS increased personnel hours devoted to identifying unauthorized household goods (HHG) carriers advertising on the internet. This effort contributed to 1) an increase in advertising investigations (from 42 in FY 2013-14 to 66 in FY 2014-15) and 2) an increase in the number of HHG companies seeking new applications or expansion in their scope of authority. The agency conducted 239 compliance audits, both planned and random, around the state. As a result of a compliance audit with one HHG carrier, approximately \$33,000 in overcharges to customers was discovered and 5 citations for various violations were issued. In educating carriers on compliance requirements, the agency provided 1,561 technical assistance interactions with companies. The ORS made improvements in telecommunications by developing streamlined annual reporting requirements for telecommunications carriers, making them more relevant and easier to comply with for the vast majority of companies. The agency conducted both railroad track and operating practices inspections around the state, issuing 1,058 rail safety defect citations. The ORS produced a summary of new FRA tank-car rules and an advisory bulletin regarding Hazardous Material response. The ORS briefed county emergency managers and the State Emergency Response Committee regarding how to correctly respond to rail incidents involving hazardous materials. In light of derailments in the first half of 2015 involving either the actual or potential release of hazardous materials, the FRA issued the new rules and regulations regarding tank cars and emergency notification to first responders.*

**GOAL:**

**THE ORS OPERATIONS PROVIDE VALUE TO THE CITIZENS OF SOUTH CAROLINA IN THAT THE AGENCY'S EXPENDITURES ARE FOCUSED ON ACCOMPLISHING THE PERFORMANCE MEASURES.**

**C. OBJECTIVES/ACTION ITEMS**

- ✓ The ORS represents all facets of the public interest – consumers, public utilities, and the economic well-being of South Carolina – by facilitating settlement discussions among parties and by conducting mediations.
- ✓ The number of complaints processed, audits performed, enforcement actions brought, technical regulatory assistance provided, and commission proceedings participated in, justify the number of employees and operational costs of the ORS.
- ✓ The societal benefits of utility rate stability and affordability, financial performance, infrastructure investment, competition, and environmental protection exceed the monetary costs of the ORS operations.

### Comments:

*The Office of Regulatory Staff accomplished all of the objectives and action items listed above. The ORS facilitated settlements or agreements in 27 matters, which resulted in \$46 million in savings to customers. The ORS reached a settlement with Duke Energy Carolinas (DEC), which resulted in savings to DEC ratepayers of \$2,902,340. The agreement captured adjustments to reduce replacement power costs and carrying costs on excess coal inventory and to appropriately assign SC's portion of the Company's settlement with a contractor. As encouraged by Act 236, the ORS retained a consulting firm, Energy and Environmental Economics, Inc. (E3), to assist the ORS and interested parties in a collaborative approach to establishing net metering methodology. The ORS and E3 sent a survey to the sixteen other intervenors in the net metering proceeding requesting their feedback on items to include in the net metering methodology calculation. Stakeholder meetings were held, and the ORS served as the facilitator to resolve disputes and issues. Through an intensive collaborative effort among the ORS and all parties that spanned several weeks, a draft methodology proposal was developed, agreed upon, and signed by 14 of the 17 parties. The ORS negotiated an agreement with Lockhart Power, who originally requested an increase of \$1,203,215, to reduce the requested increase by 29% to \$850,310, saving customers \$352,905. Piedmont Natural Gas (PNG) and SCE&G filed comments agreeing with the recommendations submitted in ORS reports under the Rate Stabilization Act (RSA) for the two companies. Savings to customers equate to \$4,665,000 for PNG and \$2,647,323 for SCE&G. A settlement was reached in the SCE&G annual fuel review that resulted in a reduction of the company's originally forecasted fuel costs by \$4,937,500 to reflect lower cost projections. The ORS recommended a reduction of \$1.25 million to the projected DSM-EE expenses of SCE&G, and the company filed a letter with the PSC agreeing with the ORS report. As part of the ORS' annual review of the Duke Energy Carolinas DSM-EE rider application, the ORS identified a computational error, vendor expenses that were not allowable for ratemaking purposes, and a program cost revision, with a combined total savings of \$157,977. In the Duke Energy Progress (DEP) annual fuel review, the ORS reduced DEP's request by approximately \$7.3 million to reflect the impact of DEP's purchase of capacity and approximately \$2.2 million to remove the cost of replacement power due to an outage at the Robinson 2 nuclear plant. Total adjustments of over \$9.5 million amount to a reduction of \$3.94 per month, which is 3.75% of an average residential bill. On March 12, 2015, SCE&G filed a petition seeking to increase its capital cost schedule and to amend the construction schedule for Units 2&3 at the VC Summer nuclear station. The ORS devoted a great deal of time and resources to this issue. Under the Base Load Review Act (BLRA), SCE&G is entitled to these modifications so long as the delays and cost increases are not the result of imprudence on the part of the company. By Order No. 2009-104(A), the Commission established a return on equity of 11%, which is applicable for revised rates filings under the BLRA. This return on equity has been consistently used for revised rate filings since issuance of the initial BLRA order in 2009. However, the ORS, the South Carolina Energy Users Committee, and SCE&G reached an agreement that, beginning with any revised rates filing made on or after January 1, 2016, and prospectively thereafter until such time as the Units are completed, SCE&G will develop and calculate its revised rates filings using 10.5% as the return on common equity, rather than the approved return on common equity of 11%. This agreement results in estimated savings of \$15 million for SCE&G ratepayers. The ORS was involved in the settlement of a number of cases, with the ORS being cited as a model for other states. Since its inception, the ORS has facilitated a total of 430 settlements and agreements with monetary savings of over \$1.6 billion. During FY 14-15 the Executive Director briefed representatives of national investment firms, research groups, and trade publications on issues of interest to them in South Carolina, including the state's regulatory environment, the V.C. Summer*

*nuclear construction, and the potential of solar energy in South Carolina. The agency was involved in major economic initiatives, including two new electric contracts between SCE&G and Boeing. Boeing anticipates investing \$1 billion and creating 2,000 jobs over the next decade.*

**GOAL:**

**THE ORS IS ALERT AND ANTICIPATES STATE AND FEDERAL REGULATORY AND INDUSTRY DEVELOPMENTS AND THEIR EFFECT ON SOUTH CAROLINA.**

**D. OBJECTIVES/ACTION ITEMS**

- ✓ The ORS consults with and/or retains recognized experts to assess emerging trends or specific issues.
- ✓ The ORS reviews, analyzes, and monitors regulatory, statutory, and judicial decisions or trends on both the federal and state levels with regard to utility regulation. The ORS gathers and provides input, participates, or takes other appropriate action when necessary.

Comments:

*The ORS continued to work with stakeholders in developing the best future for South Carolina in terms of its energy needs and economic development. This included collaborating with the SC Energy office, investor-owned electric utilities, the electric cooperatives, the Energy Advisory Council of State Regulation of Public Utilities Review Committee, the Small Business Chamber of Commerce, the SC Energy Stakeholder Workgroup, the SCE&G Energy Efficiency Advisory Group, the Duke Energy Progress (DEP) DSM Collaborative, Palmetto Clean Energy (PaCE), and conservationist groups. The agency continued to fulfill its responsibilities arising from Act 236, or the Distributed Energy Resource (DER) Program Act. A settlement was achieved in establishing the net metering methodology and then achieved 3 additional settlements in establishing DER programs for the 3 major electric IOUs. In addition, the ORS is gathering data in preparation for upcoming reports required by Act 236, including a cost-shifting report that is due December 31, 2015. The ORS continued to establish the groundwork to administer the third-party solar leasing program. The ORS engaged in a year-long effort with the DHEC Bureau of Air Quality Stakeholders Group to anticipate and examine issues related to the EPA's Clean Power Plan. The ORS prepared comments and contributed to others' comments, all of which were filed in December 2014. The agency issued a permit to Rasier, LLC - a wholly owned subsidiary of Uber Technologies, Inc. - to operate as a Transportation Network Company (TNC) in South Carolina. This issuance was made possible by new legislation (H.3525) that creates a permanent regulatory framework for TNCs in South Carolina. The ORS continued the process that began in FY 13-14 to roll out a new 854 area code within the 843 area code region. NC WARN, a conservationist activist group based in North Carolina, filed a complaint with the FERC alleging excess capacity in the Southeast. The ORS filed with the FERC a motion to intervene in the proceeding and, by an order issued April 30, 2015, the FERC denied NC WARN's complaint. The ORS is monitoring the Atlantic Coast Pipeline Project and Supply Header Project dockets that were established at the FERC when Atlantic Coast Pipeline, LLC filed a request to initiate the pre-filing process for the Atlantic Coast Pipeline Project and the Supply Header Project. These projects involve the possible construction and operations of approximately 554 miles of natural-gas transmission pipeline and associated above-ground facilities in West Virginia, Virginia, and North Carolina. The dockets are in the preliminary phase and have not reached a point where intervention has been noticed. The agency also attended industry-specific workshops and meetings both regionally and on the national level to discuss trends and emerging issues that could affect South Carolina's utility customers.*

## **EXHIBIT D**

### STATE REGULATION OF PUBLIC UTILITIES REVIEW COMMITTEE PERFORMANCE EVALUATION

#### **C. Dukes Scott, Executive Director Office of Regulatory Staff**

Review Period: July 1, 2014 - June 30, 2015

C. Dukes Scott was appointed as Executive Director of the Office of Regulatory Staff (ORS) on July 1, 2004. Prior to his appointment as Executive Director, Mr. Scott served in many capacities in public service, beginning as a staff attorney at the South Carolina Public Service Commission (the Commission), progressing to executive assistant to the commissioners, general counsel, and deputy director of the Commission. He was elected to the Commission in 1994 and was elected as an administrative law judge in 1999. He also worked in private practice in the public utility arena. Mr. Scott brings a wealth of experience in the public utility and administrative law areas to his position as Executive Director, and has been very successful in his ability to balance all aspects of the public interest with an open-door style that engenders cooperation, even among those with competing interests. Members of the public, regulated entities, and members of the General Assembly regularly comment that he is exceptionally accessible and responsive.

Mr. Scott is committed to excellence and leads by example, giving his staff a clear direction of the agency's mission and the standards it should follow to achieve that mission. He upholds the highest standards of professionalism in his conduct, work ethic, and his interactions with utilities, regulatory bodies, and the using and consuming public. He continues to work diligently to make the ORS a model of integrity and efficiency in state government. He credits his professional and thorough staff for the successes of the agency, and has consistently developed the skill and dedication that consumers and utilities have always been able to expect from the ORS. He encourages his employees to grow professionally and expects high standards from them.

Mr. Scott's knowledge of the broad spectrum of public utility issues is unparalleled in this state. During FY 14-15, he has balanced service on numerous committees, while leading the ORS toward reaching positive outcomes in many ongoing projects, negotiations and cases. He has been a proponent of economic development, briefing representatives from around the country on issues of interest to them in South Carolina. Mr. Scott also spent a considerable amount of time and effort on energy efficiency initiatives that will affect the economic climate in South Carolina for years to come. Mr. Scott was successful in securing a settlement agreement among 14 of 17 interveners in the net metering methodology required by Act 236.

The Executive Director remains a compassionate advocate for consumers, as evidenced by the Senior Weatherization Fund that came to fruition in FY 14-15. As part of the negotiations by the ORS in the Duke Energy Carolina (DEC) last rate case, DEC agreed to make, at shareholder expense, a \$1 million contribution under the direction of the ORS to support senior-citizen outreach. To assist in determining the best use of these funds, Mr. Scott worked closely with the Lieutenant Governor's office to select individuals experienced with issues facing seniors and appoint them to a Senior Citizens Advisory Committee.

From the agency's inception through June 30, 2015, Mr. Scott's efforts as executive director have resulted in 430 settlements and agreements generating savings to consumers currently estimated at over \$1.6 billion.

During FY 14-15, Mr. Scott continued to serve on the State Regulation of Public Utilities Review Committee Energy Advisory Council, the SC Interagency Transportation Coordination Council, the SC Energy Advisory Committee, the Senior Citizens Advisory Committee, the SC Energy Stakeholder Workgroup, and on the Board of Directors of Palmetto Clean Energy. These activities demonstrate Mr. Scott's commitment to areas that allow him to best build upon recognition for the ORS and its role among state and federal agencies, legislators, the media, consumers, and utilities. Mr. Scott is also civically active, holding positions of leadership in Forest Lake Presbyterian Church, the Board of the Brookland-Cayce Foundation, and the Foundation's Advisory Committee.

As in past years, surveys of parties or other persons that interacted with Mr. Scott, including ORS employees, confirm that he is professional, courteous, impartial, fair, and highly ethical in his dealings with utilities and other stakeholders. Mr. Scott enjoys the highest level of respect from parties and others who interacted with him during the review period. The general consensus from these surveys is that Mr. Scott does an excellent job. Based upon surveys of persons that dealt with the ORS during the review period, Mr. Scott provides valuable leadership and sound guidance. The surveys also indicate that Mr. Scott creates a positive work environment and leads by example to foster an agency that is responsive to the public and all other stakeholders. Mr. Scott is a compassionate advocate for consumers and sets the example for staff to follow. He excels in all aspects of his job and is an effective administrator, an outstanding public servant, and an invaluable resource for this state.