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## H.5118 and S.909

The League of Women Voters of South Carolina understands that South Carolina needs new energy generation. We appreciate the efforts that have gone into developing the bills that are now under consideration. We have the following comments:

### General Concerns

First, we believe that the regulatory structure put into place just a few years ago is sound and adequately responsive to the state's needs (including economic development). We therefore generally oppose the many regulatory rollbacks in these bills, which are especially dangerous for residential and small business users and for proper consideration of environmental impacts.

As another broad concern, the General Assembly should not pressure the Public Service Commission (PSC) by promoting individual projects subject to PSC review. The Office of Regulatory Staff (ORS) and PSC should be allowed to use the expertise for which they were hired and appointed to evaluate projects based on the evidence before them.

Statutory encouragement of the Canadys plant is often defended on the basis of approved Integrated Resource Plans (IRPs). However, the IRP is designed as a general statement rather than final and full consideration of the public interest with respect to a facility. We note that when commitments to alternative energy are under discussion, utilities are quick to dismiss the idea that an IRP represents a commitment to a specific plan of action.

Statutory encouragement for a major plant at Canadys also risks unfortunate consequences when elements of these bills interact. The greatest such danger is that of authorizing a very expensive major gas fired plant at Canadys and at the same time authorizing major energy users to shop for alternative providers. This could leave residential and small business users stranded, compelled to pay exceptionally high fees to cover utility costs for a plant that was designed to accommodate those major users. We do not oppose opening up the energy generation market to competition, but we believe this must be done carefully to avoid unintended harm.

### Specific concerns

- The number of PSC commissioners should not be reduced to three. Representation of geographic diversity and diversity of perspective and expertise matter.
- The PSC already considers economic development in its decisions. This should not be elevated to a level that would obliterate all other concerns.
- The ORS mission should not be altered to include protecting the "financial integrity" of utilities, as in H.5118. The financial integrity of a corporation lies within the authority and responsibility of its governing board and executives. V. C. Summer illustrates the impossibility of State responsibility for this when those persons are incompetent or criminal. Adding this to the ORS mission would

recreate the conflicting and basically impossible demands on the ORS prior to revision only a few years ago. The ORS mission already includes adequate consideration of “reliable and high quality” utility services as an essential element in the public interest.

- Utilities should not be allowed to begin on-site work on the basis of an Integrated Resource Plan (IRP). The IRP is designed as a general statement rather than final and full consideration of the public interest with respect to a facility.
- The “substantial weight” given to utilities in S.909 is very inappropriate. Regulatory agencies should evaluate all of the evidence before them objectively and thoroughly, without weighting.
- No *ex-parte* on-site briefings should be permitted without the opportunity for participation by all interested parties. An after-the-fact report is no substitute for the ability to hear communications directly and respond if appropriate.
- All appeals of PSC orders should not be given original jurisdiction at the SC Supreme Court with expedited priority. Aside from the undue burden this would place upon the Court, this interferes with the independence of the judiciary as a separate branch of government. The judiciary should have authority to establish its internal procedures and priorities.
- The Consumer Advocate should remain as currently placed in Consumer Affairs and should continue to intervene on behalf of consumers at the PSC.
- A restrictive 6-month deadline for PSC decision-making, followed by automatic permitting if the process is incomplete at that time, is inappropriate. This may not be sufficient when very complex matters are under consideration and furthermore presents a substantial moral hazard since applicants might be motivated to create delays until they receive automatic approval.

#### A Positive Measure

H.5118 as sent to the Senate contains the following important provision:

*An electrical utility, including the Public Service Authority, may not offer a tariff, rider, or rate proposal for a reduced electric rate, nor any other form of incentive that would result in a reduced electric rate to a data center until July 1, 2034. For purposes of this section, "data center" means any facility that primarily contains electronic equipment used to process, store, and transmit digital information which may be (a) a free-standing structure; or (b) a facility within a larger structure, that uses environmental control equipment to maintain the proper conditions for the operation of electronic equipment."*

The League considers this provision especially important because it goes to one of the most important drivers of urgency in energy generation capacity, the massive demands of data centers. While data centers make very high energy demands, they do not provide the substantial public good in jobs and associated economic activity that reduced rates and incentives are intended to reward and protect.

Further, we are aware that expanded energy generation will inevitably raise the already high prices paid by South Carolina energy consumers. If data centers do not pay the full cost of producing and delivering the energy that they receive, the difference will not be absorbed by corporate profits but by other ratepayers served by the utility. We do not believe that the people and businesses of South Carolina should be required to subsidize the energy requirements of corporations like Google, which had revenues of over \$305 billion in 2023. This provision would help to mitigate potential harm to South Carolina’s residential and other business customers.

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