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February 12, 2024

Ms. A. Shonta Dunston
Chief Clerk
N.C. Utilities Commission
430 N. Salisbury Street, Room 5063
Raleigh, NC 27603

Re: In the Matter of:
Appalachian State University d/b/a New River Light and Power Company for: 1) Adjustment of General Base Rates and Charges Applicable to Electric Service; and 2) An Accounting Order to Defer Certain Capital Costs and New Tax Expenses (NCUC Docket E-34, Subs 54 and 55 respectively)

New River Light and Power's Response to the Lovill House Inn LLC's Petition to Intervene

Dear Ms. Dunston:

Attached please find New River Light and Power's Response to the Lovill House Inn LLC's Petition to Intervene filed on January 31, 2024, in the above referenced dockets.

If you have any questions concerning this filing, please do not hesitate to contact me.

Sincerely,

/s/ M. Gray Styers, Jr.

M. Gray Styers, Jr.

pbb

Attachments

cc: Parties and Counsel of Record
NCUC - Staff
NCUC - Public Staff

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-34, SUB 54
DOCKET NO. E-34, SUB 55

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-34, SUB 54 In the Matter of: Application for General Rate Case And **DOCKET NO. E-34, SUB 55** In the Matter of: Petition of Appalachian State University d/b/a New River Light and Power for an Accounting Order to Defer Certain Capital Costs and New Tax Expenses	)	**NEW RIVER LIGHT AND POWER'S RESPONSE TO THE LOVILL HOUSE INN LLC'S PETITION TO INTERVENE**

NOW COMES NEW RIVER LIGHT AND POWER ("NRLP") by and through the undersigned counsel and responds to the Verified Petition to Intervene Out of Time and Motion to Clarify and/or Amend Prior Order (Petition) filed by Lovill House Inn LLC ("LHI") on January 31, 2024. The Petition should be denied for the reasons stated below.

Summary of Arguments

LHI has not offered any compelling reason for its failure to intervene in the NRLP rate case and participate in the scheduled hearings. LHI has not denied it received notice of the rate request, the hearing schedule, and the procedures for customers to participate as public witnesses or intervenors. The North Carolina Utilities Commission (Commission) ordered a deadline for intervention and LHI has no valid excuse for missing that deadline.

Moreover, an Order was issued in this docket; new tariff rates and service regulations consistent with that Order have been filed and accepted by the Commission; and any period in which an appeal from that Order or of those rates could be filed has expired. To subject a rate case order and approved rates and service regulations to a collateral attack would be unprecedented.

LHI raises evidentiary issues that were previously litigated. Opposition to the Supplemental Standby Charge (SSC) was vigorously argued by Appalachian Voices ("App Voices") through an expert witness and through cross-examination of the NLRP witnesses. LHI essentially argues a "value of solar" position comparable to the previously litigated position of App Voices. The interests and arguments that LHI seeks to advance have been adequately represented by another party.

The Commission has reviewed the evidence regarding the different positions on the SSC, addressed it at length in the final rate case order, and reached a conclusion. While LHI attempts to cast this as a purely legal issue of rate discrimination, the Commission's conclusion rests upon analysis of competing evidence from expert witnesses. To revisit this issue would require, as a matter of due process, additional hearing. Additional hearing would be administratively inefficient – an undue waste of time – as the issue has been well-litigated already. LHI's effort to re-litigate the SSC charge issue is barred by long-standing and well-established principles of collateral estoppel.

In the alternative, to the extent LHI asserts that the issue it is now trying to raise is different from what was previously litigated, such attempted late intervention is expressly prohibited by Commission Rule 1-19(b), which gives the presiding official discretion to

consider such petitions only when it "neither broadens the issues nor seeks affirmative relief." The late filing by LHI does both.

LHI asserts that no party will be prejudiced by allowing LHI to intervene out of time. NRLP – and indeed the public -- will indeed be prejudiced. Re-litigation of this issue will result in significant additional rate case expense to NRLP for both expert witness and attorney time. Those costs are not in rates and therefore would be unrecovered by NRLP. It is in the public interest to bring finality and closure to this rate case proceeding.

Procedural History

On December 22, 2022, NRLP filed an application with the Commission pursuant to N.C.G.S. §§ 62-133 and 62-134, and Commission Rules R1-5, R1-17, and R8-27, seeking authority to increase its rates for electric service in its service area in Watauga County, North Carolina (Application).

On March 20, 2023, the Commission issued its Scheduling Order in the rate case docket. The Scheduling Order provided in decretal paragraph 11 "That petitions to intervene in this proceeding shall be filed pursuant to Commission Rules R1-5 and R1-19 not later than Tuesday, June 6, 2023".

The Scheduling Order also provided that NRLP had to provide customers with notice of the proposed rates and charges well in advance of the hearing, as set forth in the following decretal paragraphs:

> 1. That NRLP shall, at its own expense, publish in a newspaper having general coverage in its service area, the Notice to Customers attached hereto as Appendix A, once a week for two consecutive weeks, at least 30 days in advance of the first hearing scheduled herein. The Notice to Customers shall cover no less than one-fourth of a page;

2. That the Notice to Customers, attached as Appendix A, be (1) delivered by email for customers who have provided an email address to NRLP, (2) mailed with sufficient postage, or (3) mailed as bill inserts, by NRLP to all customers no later than 30 days in advance of the first hearing set herein;

3. That NRLP shall make a copy of the Notice to Customers prominently available on its website and provide an email with an electronic link to the Notice for all customers receiving bills electronically.

The Scheduling Order prescribed the wording of a Notice to Customers, attached thereto as Appendix A, that included reference to the proposed new Net Billing Rider for solar customers, summarized procedures for customers to follow if they wished to participate in the hearings, and stated the deadline for intervention.

On March 28, 2023, a second scheduling order was issued to reflect a correction from NRLP in one of the lighting rates, and provided for a corrected Notice to Customers in that regard. The March 28 order did not otherwise change the requirements of the original Scheduling Order. On April 24, 2023, NRLP filed an affidavit that the Notice to Customers had been published in a newspaper as required by the Commission's March 28 order. On May 2, 2023, NRLP filed a verified Certificate of Service of Customer Notice. That Certificate of Service stated that in addition to the newspaper publication of the Notice to Customers, the Notice to Customers was also posted on the NRLP website and was either emailed or mailed as a bill insert to all NRLP customers.

Pursuant to the Scheduling Order and Public Notice, on May 23, 2023, the Commission held a public hearing in Boone, North Carolina, to allow customers to testify to any concerns they had regarding the proposed rates and other aspects of the NRLP application and testimonies and exhibits. LHI did not participate in that hearing.

On July 10 and 11, 2023, the Commission held an evidentiary hearing in Raleigh, North Carolina, to hear from witnesses for intervenors as well as the Public Staff and NRLP on the merits of the Application. LHI did not file an intervention or otherwise appear at the evidentiary hearing. The issue of whether there should be an SSC, and how it should be calculated, was vigorously litigated in the evidentiary hearing.

The SSC proposed by NRLP was also thoroughly addressed in post-hearing filings. Intervenors Nancy LaPlaca and Appalachian Voices stated their reasons for opposing the SSC. The Public Staff and NRLP filed a joint proposed order that stated their reasons in support of the SSC.

On October 16, 2023, the Commission issued its Order Accepting Stipulation, Granting Partial Rate Increase, and Requiring Public Notice (Final Order). The Final Order at pp. 33-40 meticulously reviewed the competing evidence and arguments of the parties with respect to the SSC. The Commission approved the updated SSC charges as requested by NRLP. ("The Commission concludes that NRLP's proposed SSCs, as presented in NRLP witness Halley's rebuttal testimony, are reasonable and appropriate based on the evidence presented." Final Order, p 40). No party filed any Notice of Appeal of the Final Order.

On November 13, 2023, NRLP filed its Amended Rate Schedules in Compliance with Ordering Paragraph 5 of the Final Order. This "compliance" filing of rates was available to the public on the Commission's website. Neither LHI nor any party to the proceeding filed or submitted concerns about the rates – including the SSC – in response to the November 13 rate schedule filing by NRLP.

On November 21, 2023, the Commission approved the compliance filing, including the rate schedules and service regulations filed by NRLP.

Over two months later, on January 31, 2024, LHI filed its Petition challenging the SSC in NRLP's approved rates.

REASONS PETITION SHOULD BE DENIED

I. The Petition Violates the Commission's Scheduling Order.

The Commission set June 6, 2023, as the deadline for prospective parties to file intervention petitions. The LHI Petition is over seven months late. LHI does not claim it had no notice of the Application, the hearing schedule, or its opportunities to testify as either a public witness or to intervene as a party. LHI seeks to justify its late intervention effort by stating that it:

> was unaware until recently, after the issuance of the Order and the subsequent communications with NRLP, that NRLP would seek to implement the Commission's Order by charging the SSC based on the solar invertor nameplate capacity, regardless of whether the system was for self-consumption, so LHI was not aware until recently that it would be impacted in that manner by the implementation of the SSC. (Petition, p 6)

The corrected Notice to Customers set forth in the Commission's March 28 Order, and delivered to customers by NRLP, however, stated in part:

> NRLP is also proposing a Net Billing Rider as a new option for its retail customers with renewable energy generation installed on their premises. This rate would allow any excess energy generated to be placed back on to NRLP's distribution system.

The compliance Rate Schedule filed by NRLP on November 13, 2023, includes a Net Billing Rider for retail customers who have solar renewable energy generation. The Rate Schedule states:

> **Standby Supplemental Charge: A monthly per kW charge applied to the rated AC capacity of the PV generation energy source installed will be applied as follows:**
>
> Customers receiving service under Schedule R - $5.92 per kW **Customers receiving service under Schedule G - $6.39 per kW** Customers receiving service under Schedule GL -$3.59 per kW
>
> For the purposes of this Schedule NBR, **the rated AC capacity for the application of the SSC shall be:** 1) the maximum output of the Customers PV system as measured by NRLP from those Customers currently served under NRLP's existing buy all/sell all rate schedule or 2) **the designed AC kW output of the PV system as provided by the Customer's solar installer as included in the interconnection request.**

(Emphasis added)

The pre-hearing Notice to Customers was sufficient to put LHI on notice that a new rate affecting its renewable energy generation was under consideration in the hearing. The Notice to Customers provided procedures for customers to participate in a public hearing, procedures for intervention, contact information for consumer representation (the Public Staff and Attorney General), an email address for sending comments to the Commission, and the docket number so customers could review the details of the NRLP Application (which included the SSC) if they sought more information than in the seven page Notice to Customers. The purpose of all this information is so that customers would know in advance what rate changes were proposed and to provide them with options for participating in the Commission's decision-making process. Furthermore, anyone with an interest in the rate schedules affecting renewable generation could have reviewed the Commission's Final Order, and the compliance filing – both of were publicly filed – and questioned any perceived incongruity before the Commission approved the compliance filing. If customers like LHI choose not to participate in the decision-making process after receiving notice, they should not be allowed to reopen the hearing over three and a half

months after the Final Order and over two and a half months after the rate schedule compliance filing by NRLP. To do so would render the Commission's Scheduling Orders and its Notice to Customers as meaningless. To do so creates the potential for never-ending rate cases.

A collateral attack on approved, filed tariff rates and service regulations – after the Final Order has been issued and the appeal period has expired -- such as proposed by LHI in this petition, is no different than filing a separate legal action challenging those rates. The Filed Rate Doctrine would clearly bar such an attack in the general courts of justice, and its principles would equally apply here. *Cf. Keogh v. Chicago N.W. Ry Co.*, 260 U.S. 156, 43 S.Ct. 47, 67 L.Ed. 183 (1922); *N.C. Steel, Inc. v. Nat. Council on Compensation Ins.*, 347 N.C. 627, 496 S.E.2d 269 (1998) (adopted in North Carolina).

LHI has not offered any reasonable excuse for missing the Commission-ordered deadline of June 6, 2023, to file its intervention petition, and, moreover, allowing an intervention at this stage in a rate case to challenge approved rates is unprecedented. The January 31, 2024, LHI Petition violates the Scheduling Order and should be denied.

II. The SSC Issue Has Been Fully Litigated and Should Not Be Re-litigated, Which Would Require Re-Opening the Rate Case Evidentiary Hearing

The very issue raised in the LHI Petition – whether the SSC discriminates against solar customers on the NBR rate – was the subject of detailed evidence presented to the Commission in the expert witness hearing. The substance of LHI's Petition is that NRLP erred in its determination of the costs and benefits of customer-owned solar generation, causing rate discrimination against solar customers. LHI is raising an issue where its interest was adequately, thoroughly, and competently advocated in the positions taken by

App Voices and Nancy LaPlaca.[1] For example, App Voices witness Barnes testified in his summary that:

> Q. Does the proposed Schedule NBR provide nondiscriminatory treatment of customer generators that is based on the costs and benefits of customer-sited generation?
>
> A. No. Most significantly, the SSC component of proposed Schedule NBR conflicts with the statutory directive that rates be "nondiscriminatory" because it is based on an erroneous analysis of the "costs and benefits" of customer-sited PV generation. I describe the errors in NRLP's calculation of the SSC in Section II(B) of my testimony. As a consequence, the SSC would cause customer-generators to pay more than their net "fixed cost of service" given the relative costs and benefits associated with customer generation.

(T Vol 2, pp 177-78; *see also* Post-hearing Brief of App Voices at pp. 24-26)

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[1] Parties in the rate case included:

1. The Public Staff, representing the Using and Consuming Public, including LHI,
2. App Voices, whose Petition to Intervene stated:

   > App Voices has approximately 40,000 members and supporters, including 6,800 in North Carolina, and is dedicated to protecting the land, air, and water of Central and Southern Appalachia and advancing a just transition to a generative and equitable clean energy economy. . . . . App Voices seeks to intervene and participate in this proceeding to ensure that its interests in promoting rooftop solar and energy efficiency . . . are represented.

   https://starw1.ncuc.gov/NCUC/ViewFile.aspx?Id=a1293687-87cf-40c5-900f-488127d392f2 (p. 2; emphasis added)

3. Nancy LaPlaca, whose Petition to Intervene stated:

   > Ms. LaPlaca seeks to intervene in this proceeding to ensure that her interests in addressing climate change, installing rooftop solar, promoting clean energy jobs in solar and energy efficiency are realized before we tip into runaway climate change.

   https://starw1.ncuc.gov/NCUC/ViewFile.aspx?Id=45155699-18dd-4ed4-b98e-60ef8f84acab (pp. 2-3, emphasis added).

   Although LHI's Petition makes the conclusory statement, that "No other party is able to adequately protects its interests," the Petition provides no information or support that its interest could not have been represented by other parties in the proceeding. For this reason, denial of this Petition would be consistent with the Commission's recent orders denying the interventions of John Gaertner and Brad Rouse in Docket No. E-100, Sub 190. *See* https://starw1.ncuc.gov/NCUC/ViewFile.aspx?Id=fde9e4fd-d8e8-4804-8c81-c8011a6ee136 and https://starw1.ncuc.gov/NCUC/ViewFile.aspx?Id=e7c54eba-1362-439d-ad80-8332b313611e .

The LHI position is similar to the position of App Voices witness Barnes. The LHI Motion presents pages of calculations – not verified by any fact witness or subject to cross-examination – that purport to show a net benefit of solar such that an SSC should not include the kW capacity for solar consumed on-site by the customer, but instead should apply only to the solar exported to the NRLP system. For both LHI and App Voices, the solution to this perceived problem is to reduce or eliminate the SSC. This idea in the Motion that the value of solar exceeds the cost to NRLP has previously been addressed in rebuttal by NRLP witness Halley:

> Mr. Barnes utilizes theoretical exercises to imply that the value of solar is greater than the actual cost of NRLP's retail rates billed to its customers. He states on Page 28 of his testimony. According to my analysis, the value of customer sited PV generation exceeds the residential retail rate by 15% or more when avoided distribution costs based on embedded costs are used in the calculation.
>
> The value of solar can only be worth the amount of actual costs avoided by NRLP at the time a customer-sited PV generation is operating, given that:
>
> (1) N.C.G.S. § 62-126.4(b) states in part "The Commission shall establish net metering rates under all tariff designs that ensure that the net metering retail customer pays its full fixed cost of service";
>
> (2) a cost of service analysis was performed to identify the cost to serve each customer class; and
>
> (3) retail rates were designed based on this cost of service analysis.

(T Vol 4 p 353)

As Commissioner Clodfelter revealed through his questions to NRLP witness Halley, what matters for establishing fixed cost recovery in the SSC is <u>not</u> the amount of energy the solar customer exports to the grid, but rather "how much the customer is not taking from the grid." (T Vol 4, pp 312-15). Thus the LHI argument that self-consumption should be eliminated from the SSC calculation is (a) erroneous because self-consumption

is energy "the customer is not taking from the grid"; and (b) an issue that was previously litigated before the Commission by another party.

The Final Order (pp 35-40) spoke to the competing testimony on value of solar as it affects the SSC. The Commission concluded that:

> NRLP primarily recovers its distribution costs through a volumetric rate, and therefore, any reduction in volumetric usage due to solar generation logically supports a charge to recover the fixed cost part of the volumetric rate for usage avoided by solar customers, as NRLP witness Halley explained in response to Commissioner questions. Tr. vol. 4, 313. This applies regardless of the time of day when the solar energy is produced because NRLP rates do not vary by TOU. While the implementation of TOU rates in the future may increase the value of solar for purposes of calculating the NBR rate and its standby charge, the position of Appalachian Voices in the present case would only assure under-recovery of NRLP's actual fixed distribution costs.
>
> (Final Order p 40)

The Final Order also addressed the question of which data to use for determining the peak kW in the SSC:

> The Commission questioned witness Halley about this alleged misalignment at the hearing, and he agreed that system capacity was appropriate to use, which he determined as the actual maximum output that the solar systems produced. Tr. vol. 4, 305. He admitted to not being familiar with the appropriate engineering terminology but clarified that the basis for his calculation was actual production data rather than what the inverters were rated as capable of producing. *Id.* at 313.
>
> The Commission concludes that NRLP's proposed SSCs, as presented in NRLP witness Halley's rebuttal testimony, are reasonable and appropriate based on the evidence presented.
>
> The Commission concludes that the actual generation produced at peak as shown by metered data is a reasonable basis for determining the kW capacity of customer systems, whereas inverter nameplate capacity would not have been the best measure. The difference between the parties was the result of mislabeling by NRLP, not a substantive difference.

(Final Order p.40; emphasis added)

There are two aspects of this part of the Final Order that are relevant to the Petition. First, the inverter capacity issue raised by LHI has already been raised by another party and well-litigated and resolved by the Commission. It would be redundant and inefficient to go through that exercise again. Second, the key to witness Halley's correction to his mislabeling with inverter capacity is that his intent – accepted by the Commission – was to use system capacity as the basis for the SSC. Where metered data from the meters on buy all/sell all customers provided peak solar generation, that was to be used for the SSC calculation. For those customers, the meters would measure both the energy used by the customer from the grid and all the energy produced by the customer from renewable generation. There was no netting of self-consumption against the energy from the grid. The reason is that under buy all/sell all, the energy consumed by the customer is billed at the retail rate, whereas the energy produced by the customer's renewable generation was credited at the avoided cost rate. Thus, the use of system capacity based on metered data from buy all/sell all customers would not deduct self-consumption.

The LHI Petition repackages issues previously raised by App Voices and resolved by the Commission. A late intervention would only revisit issues previously raised by another party and already litigated. Even worse for administrative efficiency, the Petition does so out of time, for the hearing has been long closed and any fair procedure to review the redundant position of LHI would require another hearing to address the factual matters underlying the LHI position. This would be an unjustified waste of time for the Commission and NRLP and potentially the Public Staff as well.[2]

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[2] In these circumstances, the concern reflected in the Commission's February 2, 2024, Order in Docket No. M-100, Sub 218, is perfectly relevant. That order requests comments on revisions to NCUC Rule R1-19. The proposed rule change would make express the need to avoid interventions that present redundant

III. In the alternative, assuming *arguendo* that LHI's issue is different and has not already been litigated, the Petition is barred by the express language of Commission R1-19 .

Commission Rule R1-19(b) specifies the narrow exception for when an intervention filed out-of-time can be considered in the discretion of the presiding Commissioner:

> A petition, for good cause shown was not filed within the time herein limited, and which neither broadens the issues nor seeks affirmative relief, may be presented to and allowed or denied by the presiding official, at the time the cause is called for hearing.

(emphasis added). The underlined phrases in this sentence establishes two limitations on out-of-time interventions, both of which are violated by LHI's petition.

First, if *arguendo* the issue raised by LHI's petition is not the same as has already been litigated, it then clearly, by definition, broadens the issues in the rate case. In addition, and indisputably, the motion seeks affirmative relief. *See* LHI Petition, pg. 16 ("Request for Relief"). Therefore, the petition fails not one, but both, prongs of the requirements for petitions to intervene filed out-of-time.

Second, Rule R1-19 only allows such requested interventions *prior to* the time of the hearing in the docket. As a practical matter, this application of the rule makes sense,

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evidence: "A clear, concise statement explaining why petitioner's interest is not adequately represented by existing parties." The purpose of such a rule change would be to reduce the amount of time spent hearing repetitious evidence. As the Commission observes in its February 2, 2024, order in Docket M-100, Sub 218:

> Given that certain of the proceedings before the Commission are complex, highly technical, and conducted in accordance with expedited statutorily mandated timelines, administrative efficiency and regulatory economy are critical to the Commission's ability to carry out its duties.

The LHI Petition fails to satisfy this need for administrative efficiency.

because an intervention allows a party "the right to call and examine witnesses, cross-examine opposing witnesses, and be heard" in "any hearing or investigation *pending before the Commission.*" Rule 1-19(a) (emphasis added). In the current situation, the hearing is over – there is no opportunity to call and examine witnesses, etc. – because there is no longer any "hearing or investigation" still "pending"; the Final Order has been issued, and the appeal period has expired. As a legal matter, this application of the rule makes sense, because, otherwise, such late interventions would either interject new issues or, alternatively, require re-litigating the same issues again by the newly-admitted party – neither of which is allowed. Therefore, interventions such as requested by LHI are not allowed by Rule 1-19.

IV. Ignoring the Commission's careful consideration and decision on this issue would violate the well-established and long-standing principles of res judicata and collateral estoppel and the underlying rationale for those principles.

The reasoning in the foregoing sections are all analogous to the principles of res judicata and collateral estoppel found in numerous appellate court decisions. As explained by the North Carolina Supreme Court:

> A judgment is conclusive as to all issues raised by the pleadings. When issues are presented, it is the duty of the court to dispose of them. Parties, even by agreement, cannot try issues piecemeal. The courts and the public are interested in the finality of litigation. This idea is expressed in the Latin maxim interest *reipublicae ut sit finis litium*, that there should be an end of litigation for the repose of society. The law requires a lawsuit to be tried as a whole and not as fractions. Moreover, it contemplates the entry of a single judgment which will completely and finally determine all the rights of the parties. A party should be required to present his whole cause of action at one time in the forum in which the litigation has been duly constituted.

Hicks v. Koutro, 249 N.C. 61, 64, 105 S.E.2d 196, 199-200 (1958) (internal citations omitted), *as quoted in Croom v. Dept. of Commerce,* 143 N.C. App. 493, 498-500 (NC Ct App 2001). Or, in referring to this principle as *res judicata,* the North Carolina Court of

Appeals stated in *ACC Const., Inc. v. SunTrust Mortg., Inc.*, 239 N.C. App. 252, 261–62, 769 S.E.2d 200, 207–08 (2015):

> The purpose of the doctrine of *res judicata* is to protect litigants from the burden of relitigating previously decided matters and to promote judicial economy by preventing unnecessary litigation. In that sense, the doctrine of *res judicata* works in conjunction with other legal and equitable doctrines that preserve the integrity and finality of judgments by prohibiting collateral attacks . . ."

Id. (multiple internal citations omitted).

Although administrative proceedings are often less rigid and more flexible in their procedures than judicial cases, the principles of collateral estoppel and res judicata, along with "other legal and equitable doctrines," should guide the Commission's discretion in considering LHI's petition. For example, although LHI asserts that no party will be prejudiced by allowing LHI to intervene out of time, NRLP will indeed be prejudiced. Re-litigation of this issue will result in significant additional rate case expense to NRLP – a small utility with a small customer base -- for both expert witness and attorney time. Those costs are not in rates and therefore would be unrecovered by NRLP.

Moreover, the overall cost of service and revenue requirement in the rate case – the inputs that determined the approved rates and service regulations, included the Supplemental Standby Charge – calculated by witness Halley's calculations, supported by the Public Staff, approved by the Commission, and communicated to NRLP customers – have been in effect for now almost three months. Allowing LHI's petition and motion would interject uncertainly into those rates. It would thus be unfair and inequitable to NRLP and its other customers and would not be in the public interest.

Reipublicae Ut Sit Finis Litium.

WHEREFORE, for all of these reasons, NRLP requests that the LHI Petition be denied.[3]

Respectfully submitted this 12th day of February, 2024.

FOX ROTHSCHILD, LLP

By: */s/ M. Gray Styers, Jr.*
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[3] If the Petition to Intervene were to be granted, NRLP would respectfully request an opportunity to respond further and submit evidence in opposition to the Motion on its merits.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **NEW RIVER LIGHT & POWER COMPANY'S RESPONSE TO THE LOVILL HOUSE INN PETITION TO INTERVENE** has been served by electronic mail, hand delivery, or by depositing a copy in the United States Mail, first-class postage prepaid, properly addressed to parties and / or counsel of record.

This the 12th day of February, 2024.

FOX ROTHSCHILD LLP

By: */s/ M. Gray Styers, Jr.*
M. Gray Styers, Jr.