

VIA ELECTRONIC FILING

September 25, 2020

Department of Labor & Industry (“Department”)
Safety & Health Codes Board (“Board”)

**Re: Request for Utility Exemption Regulatory Requirements as Occupational Health Measures
via Department of Labor and Industry Rulemaking**

Dear Ladies and Gentlemen:

The purpose of this letter is to reiterate our request for a utility industry exemption to the Board’s latest permanent COVID rulemaking proposal. Virginia’s fourteen electric cooperatives continue to have concerns about the Board’s current rulemaking initiative.

We remain concerned that this rulemaking, as applied to electric utilities, may disrupt utility operations and make electric line workers less—not more—safe. While not in any way downplaying the dangers of COVID-19—the danger of electrocution is a greater danger than COVID-19. Our safety practices aim to prevent electrocution, and the Emergency Temporary Standard arguably makes it more likely as applied to line workers and technical personnel.

Therefore, we would like to request that the exemption for field and operational personnel operating in the open air, including performing aerial linework, noted in the recording of the Board’s meeting concerning PPE, be made explicit in the permanent safety standard. **Given the colloquy between Mr. Withrow and Board Member Hoover during the Board’s discussions regarding the Emergency Temporary Standard, it appears that the Department agrees with us that this type of exemption is wholly appropriate.**

If this were to happen, it would give us regulatory certainty, remove conflicts with other federal and state regulatory requirements, and keep Cooperatives out of the untenable position in which they find themselves at the moment, operating under the Emergency Temporary Standard. For the reasons stated in my June 22, 2020, comments on the Emergency Temporary Standard, we request this clarification.

Secondly, and more generally, we would also remark that: (i) the Permanent Standard should still contain a sunset date and be of a length certain; (ii) the Permanent Standard continues to limit flexibility in response to a very fluid situation; (iii) the Permanent Standard should not be expanded to cover other infectious diseases (The Cooperatives are not health care organizations and do not employ health care professionals as a matter of course.); and (iv) should the Permanent Standard be substantively amended by the Board, another round of notice and comment, if not formal public comment, should be allowed.

Safety is part of our culture—part of everything we do as electric cooperatives. Our own industry safety regimen as mandated by other applicable state and federal law must take precedence over any other COVID-related requirements. Thank you for your kind attention to this matter and consideration of these comments, and if you have any questions, please do not hesitate to contact me.

Respectfully submitted,



Samuel R. Brumberg