

Erin C. Borissov
eborissov@parrlaw.com

October 24, 2024

Via Electronic and Certified Mail

Matthew Land
matt@wtb-lawyers.com
Waldron/Tate/Bowen/Land
Inland Building
156 E. Market St., 5th Floor
Indianapolis, IN 46204

RE: Response to September 25, 2024 Letter on behalf of William J. Wietlisbach, Joyce Kessens, V. Albert Armand, Brad Armand, Stephen Kinker

Dear Mr. Land:

The Decatur County REMC Board of Directors has requested me to respond to your September 25, 2024 Letter on behalf of William J. Wietlisbach, Joyce Kessens, V. Albert Armand, Brad Armand, and Stephen Kinker ("Complaining Members"). In addition to your September 25, 2024 letter, the Board and management team have received and reviewed letters or complaints from some or all of the Complaining Members dated February 23, 2024 (U.S. certified mail); June 10, 2024 (email from Matt Land); July 9, 2024 (hard copy hand delivered by Bill Weitlisbach to Steve Nobbe); and September 25, 2024 (U.S. certified mail). By these letters and complaints, the Board understands that Complaining Members believe the Board fails to follow governance policies and the Complaining Members disagree with the Board's procedure for addressing inquiries regarding such governance policies ("Complaints"). The Board and management team have also received and reviewed letters or complaints from sitting DCREMC directors dated September 15, 2020, August 20, 2021, October 25, 2021, January 26, 2022, April 22, 2022, May 4, 2022, December 16, 2022, January 23, 2023 ("Director Letters").

The Complaints

At the outset, it is important to recognize that these Complaints share numerous commonalities. They all contain misrepresentations and misstatements of fact, which appear to be deliberate attempts to mislead a reader into accepting these inaccuracies as truth. The Complaints repeatedly raise issues previously addressed by the Board and repeatedly request information that has already been provided through prior correspondence. The Complaints present member

arguments disguised as questions or requests for information. In short, it is clear from the content and the disorganized nature of the Complaints that the primary goal was merely to express Complaining Members' general disagreement with the manner in which the Board conducts business.

Notwithstanding that the clear objective of the Complaints is to provoke a reaction from the Board without raising genuine concerns, the Board and management team reviewed and thoughtfully considered these Complaints and responded to each of them:

- DCREMC reviewed the Complaints at the regular monthly Board meetings on March 27 and June 26.
- DCREMC reviewed and discussed the Complaints in executive session on June 11 and September 25.
- DCREMC responded in writing to Complaining Members on March 29 and July 18.
- Steve Nobbe, in a personal capacity, responded in writing to Bill Weitlisbach on August 13.
- To the extent the letters request copies of DCREMC governing documents (e.g. Bylaws, Services Rules and Regulations or Policies), all DCREMC governing documents, including the Bylaws, Service Rules and Regulations, and Policies can be accessed (and have been accessible for several years) online at the following link: <https://www.dcremc.com/about-us/company-documents/>

The Board understands and acknowledges that Complaining Members disagree with the procedure utilized by the Board in addressing inquiries regarding DCREMC's governance policies. As stated by the Board, and/or its members in a personal capacity, in communications dated March 29, July 18, and August 13, the Board disagrees with Complaining Members on all points.

Specifically, Complaining Members would like DCREMC to cease the use of executive sessions to discuss member concerns and exercise greater "integrity and forthrightness" in responding to member complaints. This position is unreasonable and illogical. First, in most cases, members prefer to keep their names and complaints confidential. Requiring every complaint to be discussed in an open (recorded) Board meeting would stifle—not promote—communication from members who have legitimate concerns. And while there is no policy or procedure that *requires* the Board to discuss written complaints in an open meeting, the rules and policies do allow a member request to attend an open (recorded) Board meeting to discuss a complaint. Any one of the Complaining Members could have requested to address the Board in an open (recorded) Board meeting to discuss these Complaints.

The Board has responded to the Complaints. There is no policy requiring the Board to respond to repetitive complaints or vague and hypothetical inquiries from members. The Board stands by its

governance practices and past decisions, and the Board will not spend any more of its time or the members' money responding to the Complaining Members' repetitive complaints.

Director Letters

The Board reviewed, thoughtfully considered, and responded to each of the Director Letters.

- September 15, 2020 correspondence sent by attorney Christopher Tebbe on behalf of a sitting director to attorney Don Wickens requesting the names of the individuals on the DCREMC advisory committee or that have been invited to be on the advisory committee. The Chairman of the Board engaged Mr. Wickens and attorney Erin Borissov to provide a written response stating that policy requires any information requested by a director to be relevant to their role as a Director. No reason was ever provided for the information request, although this request was fulfilled as specified.
- August 20, 2021 correspondence sent by attorney Christopher Tebbe on behalf of a sitting director to attorney Erin Borissov requesting the complete report with attachments prepared by Molly McPherson, the original advisory Board committee information, and 2021 contract with SBS concerning survey of the ballots for the director and nominating committee selections. These requests were all fulfilled.
- October 25, 2021 correspondence sent by attorney Christopher Tebbe on behalf of a sitting director to Steve AmRhein and the Board members of DCREMC about information being withheld from Carl Riedeman that was received by the other Board members. This topic was included in the January 26, 2022 complaint submitted by two directors, which was thoroughly investigated and concluded with no breach of policy or bylaws.
- January 26, 2022 correspondence sent by attorney Christopher Tebbe on behalf of a sitting director to all of the DCREMC Board members regarding incidents of alleged harassment and intimidation by the DCREMC CEO and concerns about the DCREMC By Laws and Policies not being followed or upheld. The Board conducted a formal independent investigation of these allegations and addressed this topic in several special meetings. The independent investigator reported to the Board that no violations of current bylaws or policies were identified. During a regular Board meeting, the Board discussed the investigation and closed this matter.
- April 22, 2022 correspondence sent by attorney Christopher Tebbe on behalf of a sitting director to Steve AmRhein and the Board members of DCREMC requesting information about the election process to guarantee that the election process is a fair election. The Board discussed this letter during the regular

monthly Board meeting on April 28, 2022, and the Chairman responded to this letter through email on May 12, 2022.

- May 4, 2022 correspondence sent by attorney Christopher Tebbe on behalf of a sitting director to Steve AmRhein requesting that it be documented that during Carl Riedeman's 3-year term as a Director, multiple decisions were made by the Chairman of the Board that did not abide by DCREMC's By-Law and Policies. The Board requested legal counsel to review and investigate this complaint and no violations of current bylaws or policies were identified.
- December 16, 2022 correspondence sent by attorney Christopher Tebbe on behalf of two sitting directors to all DCREMC Directors concerning By-Laws and Policies of DCREMC not being complied with and requesting that Brian Garrison be present at all future Board meetings, CEC meetings, nominating committee meetings, the CEO's 2022 evaluation, and the annual meeting to prevent harassment to specific Directors and to ensure that all By-Law, Rules, and Policies are being followed. This was a letter from two directors to the Board of directors through an attorney, and the Board discussed and addressed this matter during the December 28, 2022 board meeting in executive session.
- January 23, 2023 correspondence sent by attorney Christopher Tebbe on behalf of two sitting directors to Brian Scheidler and the DCREMC Board members to follow up on requests made in the correspondence sent on December 16, 2022. This was a letter from one director to the Board of directors through an attorney. The Board had previously discussed and addressed these requests during the December 28, 2022 board meeting and, pursuant to the January 23, 2023 correspondence, the Board reviewed Policy 1-6: Services of Consultants, which provides guidance for the attorney-board relationship and selection process.

Apparently, Complaining Members disagree with the procedure utilized by the Board in addressing the Director Letters. It should be noted that the Board wonders how Complaining Members are even aware of the Director Letters as they all pertain to internal governance matters—not member complaints. It appears that a former director has likely breached a duty of confidentiality in disclosing some or all of the Director Letters to the Complaining Members. Nevertheless, the Board disagrees with Complaining Members on all points. The Board has responded to the Director Letters. The Board stands by its governance practices and past decisions.

The Board supports and promotes robust debate and discussion in its governance practices, especially when there is disagreement between board members. The Board believes that sound governance requires each director to engage in discussion, consider credible information furnished by industry experts, and make decisions in the best interest of the members and the cooperative. However, some former directors of this cooperative have shown their appetite to engage in conduct that hampers sound governance and transparency by choosing to engage a

private attorney to send letters to the Board attacking Board decisions or practices, while at the same time refusing to engage in meaningful discussion and debate during board meetings. Such behavior demonstrates clear intent to distract the Board from focusing on the business of the cooperative to serve a personal agenda. The Board rejects such behavior.

Additional Comments

The Board of Directors is elected by DCREMC members to serve as the governing body of the cooperative and to do all things necessary in conducting the business of the cooperative. Each Director is aware of his or her fiduciary duty to act in a manner that is consistent with the best interest of the cooperative and its members. Among other things, the Board has authority to review member complaints to determine the best course of action in resolving complaints. In performing this investigative function, the Board strives to conduct a prompt and thorough investigation of legitimate complaints and to resolve such complaints in good faith and in the best interest of the cooperative and its members. The Board is also cognizant of its duty to make strategic decisions about resource allocation to ensure the cooperative's financial health.

The Board has responded promptly to inquiries like this letter and disagrees with the opinions expressed by the signing members. Additionally, the Board has taken appropriate actions internally when allegations of infractions are made such as the formal independent investigation of the allegations set forth in the January 26, 2022 letter. The Board stands by its governance practices and past decisions, and the Board will not spend any more of its time or the members' money to respond to the Complaining Members' repetitive complaints. **To the extent Complaining Members are not satisfied by the Board's response herein, Complaining Members may exercise their right to challenge DCREMC's governance practices and the Board of Directors' specific decisions in civil court.**

Sincerely,

PARR RICHEY
FRANDSEN PATTERSON KRUSE LLP

By: 
Erin C. Borissov

ECB/kc

cc: DCREMC Board of Directors (via email)
DCREMC CEO (via email)
Don Wickens (via email)
Robert Wickens (via email)
William J. and Bonnie S. Wietlisbach (via certified mail)
Joyce Kessens (via certified mail)
V. Albert Armand (via certified mail)
Brad and Gretchen Armand (via certified mail)
Stephen and Pamela Kinker (via certified mail)