

March 27, 2016

To: Public Service Commission of South Carolina

From: Tom Clements, Concerned Citizen and Resident in SCE&G Service Area

**Re: Request for Emergency Hearing Regarding Troubling Situation with SCE&G's Nuclear Construction Project and Westinghouse Bankruptcy Impacts;
Urgent Need for Action in the Public and SCE&G Interest by SC PSC, ORS**

Submission for the Record: Memo and Attached Documents on Westinghouse Financial Meltdown and its Impacts to SCANA/SCE&G and the VC Summer Project to be Filed in Docket 2008-196-E (*Combined Application of South Carolina Electric & Gas Company for a Certificate of Environmental Compatibility and Public Convenience and Necessity and for a Base Load Review Order for the Construction and Operation of a Nuclear Facility in Jenkinsville, South Carolina*)

This memo and attached documents are being submitted for the record of Docket 2008-196-E. I request that the memo and all attachments be scanned and entered into the on-line record of the docket.

I am filing this memo both as a ratepayer of SCE&G and formal intervening party in 2008, via the public interest organization Friends of the Earth, in the initial docket (2008-196-E) seeking Public Service Commission of South Carolina (PSC) approval for the VC Summer nuclear construction project of South Carolina Electric & Gas (SCE&G).

Concerns raised in 2008 during proceeding before the PSC about potential cost overruns, schedule delays, rate impacts and challenges with the touted "modular construction" have only grown over time and been repeatedly expressed in subsequent proceedings. Unfortunately, those concerns are now at an all-time high.

The concern about the SCE&G/Santee Cooper nuclear project is compounded by the fact that the project, being paid for by captive rate payers, is shrouded in unnecessary silence and secrecy regarding recent and on-going developments. The Office of Regulatory Staff (ORS) has unfortunately done nothing public in the last period of time to warn ratepayers as to the troubling financial situation that has developed and that now looms over both the project and those commercial and regulatory entities associated with it.

Since approving the project in February 2009, the Public Service Commission has been a supportive party to the project every step of the way. The PSC has already affirmed 9 (nine) annual Baseload Review Act (BLRA) rate hikes – resulting in about 18% of the current SCE&G bill

just being for financing costs – and approved various other cost-overrun and schedule-delay dockets as requested by SCE&G. Thus, the PSC is “all in” and “owns” the project, come good or bad. The time has come to view the project in a more critical manner than in the past.

Given the likelihood of a bankruptcy filing by Westinghouse and rumored poor performance of Fluor, construction contractor, as well as continued delays and cost overruns, the overall project could be in serious jeopardy. As the PSC is the regulatory agency overseeing this disturbing situation, which could result in great harm to both ratepayers and the financial viability of SCE&G and Santee Cooper, action by the PSC (and the SC Office of Regulatory Staff) to get to the bottom of the situation and take action to protect ratepayers is called for.

Urgent Request for Hearing on VC Summer Project

Waiting for an ex parte briefing by SCE&G that may never come is not acceptable. Silence and inaction by the PSC and ORS in the face of this situation is a disservice to commercial and residential ratepayers in the SCE&G service area and to South Carolina citizens in general.

I thus request that you direct SCE&G and other parties to the project to appear before the Commission in an emergency hearing to explain what is going on. As servants of the people, it is time that you stepped forward and utilized the powers vested in you and not proscribed by law. Such a hearing would be but one step to reviewing and acting on the matter.

The “settlement agreement” agreed to by parties in the most recent cost overrun docket – 2016-223-E – caps the financial exposure to ratepayers for the VC Summer construction cost and gives some solace in the current situation. The fact that Westinghouse may declare bankruptcy will not impact the terms of that agreement as it relates to ratepayers but it is likely that SCE&G might claim, in an effort to limit their financial exposure, that the settlement agreement is void in case Westinghouse declares bankruptcy. In any event, bankruptcy would impact how SCE&G, Fluor and Westinghouse bear the costs incurred until now and into the future (if the project continues). Exposure by SCE&G to run-away costs, which would be partially caused when the project extends beyond 2020, may threaten the company’s viability.

It appear that there is nothing in the Baseload Review Act (BLRA) limiting the Commission’s authority to proactively and publicly examine, in a hearing and via other means, details of the current situation with the VC Summer construction project. Likewise, I do not see anything in the BLRA that prohibits you from compelling the parties – mainly SCE&G and ORS – to present themselves before the Commission to address the pressing matters at hand.

There are also other parts of public utility law which would apply in addition to the electricity dockets before the PSC – including 2008-196-E and 2016-223-E – and which give authority for a hearing on the VC Summer construction issues, such as:

South Carolina Code of Laws
Title 58 - Public Utilities, Services and Carriers
(<http://www.scstatehouse.gov/code/title58.php>)

CHAPTER 27
Electric Utilities and Electric Cooperatives

ARTICLE 15
Commission Hearings, Investigations and Proceedings

SECTION 58-27-1910. Promulgation of rules governing pleadings, practice and procedure.

The Commission may prescribe rules governing pleadings, practice and procedure before it not inconsistent with the provisions of this chapter or any other provisions of law.

SECTION 58-27-1930. Additional hearings; notice.

The Commission may, in addition to the hearings specifically provided for by this chapter, conduct such other hearings as may be required in the administration of the powers and duties conferred upon it by this chapter and by other acts relating to electrical utilities. Notice of all such hearings shall be given those interested therein.

SECTION 58-27-1960. Issuance and service of subpoenas and other process.

The Commission and each commissioner may issue subpoenas, subpoenas duces tecum and all other necessary processes in proceedings pending before it, and such process shall extend to all parts of the State and may be served by any person authorized by law to serve processes.

The time for the PSC and ORS to stand by and silently watch the devastating situation at the VC Summer project must end. It is time for the PSC and ORS to proactively and fully explore, and not on the terms of SCE&G, what is happening. An emergency hearing will be but one way to get to the bottom of this disturbing matter that could have negative financial impacts to the entire state. Other steps beyond and in addition to an hearing will be necessary.

Questions begging answers concerning the VC Summer project and to be addressed in an emergency hearings and any briefing before the PSC include:

Is Westinghouse set to declare bankruptcy during the week of March 27, 2017 or thereafter?

If Westinghouse declares bankruptcy, what is the impact to the project and all partners?

Is there any truth to the rumor that some construction on the VC Summer project could be halted on Tuesday, March 28, 2017?

Where is the schedule for the project and why hasn't SCE&G delivered it to the PSC, ORS and to the public?

Will SECE&G attempt to renege on earlier legal commitments and promises and claim that "in-service" dates now stretch beyond 2020 for both new units?

Is Fluor now being paid on time to work on construction? What has been the performance of Fluor?

If any company leaves the project, such as Westinghouse and Fluor, who will pick up the reactor design and construction work, with what qualified team and at what cost?

What is the role of Bechtel given changed circumstances?

What is the impact of any Westinghouse bankruptcy on the ability of SCE&G and Santee Cooper to raise funds for the reactor projects? What is the status of credit ratings?

If Westinghouse claims its liability is capped under bankruptcy or other agreements, who will pay costs beyond that cap?

When will SCE&G agreements with Westinghouse and Flour be made public?

Who is standing up for SCE&G and Santee Cooper residential and commercial customers?

Will a consumer-oriented analyst be engaged to analyze the host of cost, schedule and rate impacts of the project and its various options on ratepayers?

Is it prudent to continue the projects as cost overruns will likely continue to mount?

Is SCE&G able to make a prudency case if mounting cost overruns continue?

The fact that legislation was recently introduced last week by Senator Scott to amend the Production Tax Credit (PTC) legislation basically admits the 2020 dates for reactor operation are under threat and likely not to be met. When will realistic "in-service" dates be presented? (Senator Scott news release, with link to legislation:

<https://www.scott.senate.gov/press-release/senator-scott-congressman-rice-introduce->

[bipartisan-legislation-lower-energy-prices](#))

If BLRA abandonment is actively being considered, what protection do ratepayers have, apart from the “settlement agreement?”

What is the status of the "settlement agreement" in case of Westinghouse bankruptcy? What is the status of the settlement agreement if Toshiba/Westinghouse refuses to take on additional debt with the VC Summer project?

Will the PSC issue subpoenas to compel presentation of documents, schedules and information pertinent to the current financial crisis?

What will be the pecking order of payment of VC Summer contractors in case of bankruptcy? Where does the new Bechtel contract (for additional employees) fall in order of payment?

When will SCE&G honestly explain to the SC PSC and the public about what is going on? Where is the ex parte briefing that SCE&G said it would present at the end of March/early April?

If SCE&G sticks to the promised April 2020 in-service date for the first new reactor, how can ~70% of construction be finished, start-up testing conducted and the unit placed on line by April 2020 (unit 2), which is just 3 years from now? (SCE&G reported in its 4th quarter report 2016 that construction was 30.9% complete.)

Does the schedule to finish unit 2 and have it in service by April 2020 hold safety risks with construction? Will the PSC and ORS closely track safety and financial implications of rushed construction and project disruption caused by bankruptcy of Westinghouse? (This matter has been raised with the NRC.)

Does a push by the utilities with the NRC to roll ITAAC closures into one overall document hold safety and financial risks?

Will SCE&G still apply for the annual BLRA rate hike in May 2017?

What is the overall cost of construction on a monthly basis and how much will a delay cost per month beyond April 2020 and December 2020?

What is the validated cost of the overall project at this point?

Is there any risk of SCE&G bankruptcy due to the nuclear project?

Under to better inform ratepayers as to the costs they are facing no matter what happens, will the PSC direct SCE&G to place on the bill a line-item with the percentage of the bill attributed to the BLRA and new-nuclear financing and capital costs?

What will be the impact to new commercial and residential customers eyeing the SCE&G service area when it is realized by them that a large and growing part of the bill is for the mismanaged nuclear project?

Are Duke Energy and/or Southern Company/Georgia Power and/or Dominion or any other companies eyeing take-over of SCE&G if the company can't weather the financial storm that it faces?

Is SCANA/SCE&G being investigated by any legal authority in the State of South Carolina, including as related to the Richard Quinn & Associates, which evidently has done work for SCANA and the so-called "Statehouse probe?" If any investigation is taking place is it any way connected to SCANA's pursuit of any aspect of the VC Summer project, including passage of the BLRA by the legislature in 2007?

Who in South Carolina is responsible for this situation having been allowed to develop and progress to this disturbing point? Who in the legislative and regulatory community will fully explain to the public what's happening and accept responsibility for having allowed this situation to develop and come to a potential breaking point?

The following articles and documents are attached and submitted for the record. They merit full analysis and response by the PSC, SCANA/SCE&G, ORS and other parties:

1. *Toshiba's Westinghouse may file bankruptcy Tuesday, seeks Kepco aid: Nikkei*, CNBC, March 27, 1 page
2. *Toshiba bankruptcy filing for Toshiba's Westinghouse ideal option: source*, Reuters, March 27, 2017, 2 pages
3. *Toshiba Reportedly Plans to File Westinghouse Bankruptcy on March 31*, Reuters article in Fortune magazine on line, March 24, 2017, 1 page
4. *Toshiba decides on Westinghouse bankruptcy, see \$9 billion in charges: sources*, Reuters, March 24, 2017, 2 pages
5. *Toshiba troubles drive credit downgrades for reactor builders*, EE News, March 24, 2017, 2 pages

6. *Toshiba financial issues my hurt credit of US AP1000 owners, Moody's says*, Nucleonics Week, March 23, 2017, 2 pages
7. *Statehouse corruption investigators seek information from BlueCross BlueShield of South Carolina*, Charleston (SC) Post and Courier, March 23, 2017, 3 pages
8. *Westinghouse Bankruptcy May Limit Toshiba's Looming Losses*, Bloomberg, March 22, 2017, 4 pages
9. Morgan Stanley brief *Implications of Potential Westinghouse Bankruptcy Filing*, March 22, 2017, http://www.eenews.net/assets/2017/03/24/document_ew_05.pdf , 15 pages
10. *Toshiba Nuclear Woes Has Moody's Warning of Scana Credit Risks*, March 20, 2017
11. *Santee Cooper to study rate increase tied to nuclear plant construction*, Charleston (SC) Post & Courier, March 20, 2017, 2 pages
12. *Moody's Rating Action: Moody's changes Georgia Power outlook to negative, affirms Southern with stable outlook*, March 20, 2017, http://www.eenews.net/assets/2017/03/24/document_ew_04.pdf , 7 pages
13. *Bechtel staff join AP1000 construction projects*, Nucleonics Week, March 9, 2017, 2 pages

Thank you for consideration of the concerns expressed in this memo and attached articles and documents. This filing is but an initial response to the troubling situation facing SCE&G and its nuclear construction project. I will anticipate PSC action to address this most pressing matter, including a response to the request for an emergency hearing.

Submitted by:

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