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Doomed from the Start: \$9 Billion Reactor Construction Debacle due to Imprudence by South Carolina Electric & Gas (SCE&G) and Dereliction of Duty by the S.C. Public Service Commission and the Office of Regulatory Staff

Public Interest Testimony Presented *in absentia* from the Witness List of the Senate's V. C. Summer Nuclear Project Review Committee and House Utility Ratepayer Protection Committee

By Tom Clements, Senior Adviser, Friends of the Earth (Initial Public Interest Intervenor before the S.C. Public Service Commission on SCE&G's V.C. Summer Reactor Construction Project, August 2008)

Public interest organizations are notably absent from the lists of those testifying to the legislative committees on August 22 and August 23 about SCE&G's nuclear reactor construction debacle. This is striking in that we have both witnessed and been formally involved in the entire situation up from the beginning in 2008 to the current state of affairs.

Public interest groups, therefore, may be among the most credible of potential witnesses who have observed the actions and behavior in this matter of South Carolina Electric and Gas, the Public Service Commission of South Carolina and the South Carolina Office of Regulatory Staff. SCE&G falsely and imprudently sold a project that was troubled from the start. The PSC and ORS bought off on it without proper oversight or review and thus abrogated their responsibilities to the people of South Carolina.

The initial filing by SCE&G for construction of the two AP1000 experimental reactors at the V.C. Summer site was on May 30, 2008 ([Docket 2008-196-E](#)). On August 13, 2008, Friends of the Earth formally intervened in the docket. We participated in a 3-week hearing in late 2008 and our expert witness testified about potential shortfalls of the project and that cheaper, safer energy alternatives should have been pursued. Our position on those matters, which has turned out to be accurate, has never wavered.

Doomed from the Start - Due to Poor Project Conception, Imprudent Project Management and Inadequate Oversight

ORS and the PSC accepted the assertions and claims by SCE&G and its alleged expert witnesses about the cost of the reactor, the ease of construction utilizing a modular approach and that energy efficiency, conservation, solar and wind were not viable alternatives. Accepting SCE&G's inaccurate information as true, on February 27, 2009 the PSC approved the project without proper scrutiny. Thus, SCE&G and partner Santee Cooper set off on a fateful path that was doomed from the start.

Over the years, warnings about problems have continued from Friends of the Earth, the Sierra Club, Savannah River Site Watch and a number of responsible individuals. We watched and expressed concern as cost overruns mounted, as schedule delays increased, as construction problems multiplied and as prudent project management by SCE&G proved elusive. Our warnings were ignored.

Of highest concern, throughout 2016 it was revealed that SCE&G had no Integrated Project Schedule and no cost estimate; this stunning and potentially lethal fact for a project of this size and complexity was well known. Then, the long-anticipated bankruptcy of Westinghouse was declared on March 29, 2017, starkly revealing that the project was not viable, and it tipped into the termination abyss. To those monitoring the project it was clear in mid-2016 that catastrophe loomed, even based on the cursory and inadequate information provided by SCE&G and improperly analyzed by the PSC and ORS.

Eight years since the first PSC approval and with \$9 billion wasted, some have expressed surprise at what has happened. Having been present at so many PSC hearings on cost overruns and schedule delays, on so many calls over the years by the Nuclear Regulatory Commission about the construction and reactor design issues, and having closely monitored an array of developments, that the project was terminated was no surprise.

In all the proceedings and meetings I've attended since 2008 I can't recall many of those who are now feigning surprise or expressing concern as having been engaged in the process. The enablers - PSC and ORS - helped speed the demise of the project by buying into inadequate and misleading information and analyses by SCE&G. Who was there to question things as the situation grew worse and worse? The legislature's role, via the Public Utilities Review Committee (PURC), was to make sure that PSC members and ORS served the perceived interests of SCE&G. Likewise, the PURC's oversight of PSC and ORS performance has been abysmal and underscores the need for the PURC members to be removed.

Those who were caught by surprise were either not paying attention all these years, especially over the last year, or were ignorant of the pitfalls developing from the day the project was approved. Unfortunately for us all, both the Public Service Commission and the Office of Regulatory Staff are guilty of dereliction of duty. If reform is serious, key decision makers at the PSC and ORS, as well as at SCE&G and Santee Cooper and the Electric Cooperatives of SC, must be held accountable.

Yet, no officials at SCE&G, Santee Cooper, the Electric Cooperatives of South Carolina or the PSC or ORS have yet accepted responsibility and none have resigned. Is there no strength of character and no honor amongst those responsible officials that have caused such grievous harm to our state? Firings and removal from office must now actively be pursued.

Unjust Baseload Review Act (BLRA) Caused the Project's Downfall, Thanks to the Legislature's Approval of the Law in 2007, as Pushed by Utilities Eyeing Nuclear Projects

A main issue before us is the amending of the Baseload Review Act (BLRA), so as to now place costs and risks on the shoulders of SCE&G and its shareholders. It's time for them to put financial skin in the game. As SCE&G is evasively avoiding responsibility and shamelessly attempting to lay blame at the feet of others, SCE&G must now assume the cost of the damage it has done and begin reparation to customers who are still paying 18% of their bill for this boondoggle of epic proportions.

While it is clear that SCE&G will claim that abandonment provisions in the BLRA will allow them to stick all sunk costs to the ratepayers, that the company has not shown prudence at key decision points will result in costs soon being placed at the feet of the company even if the BLRA is not amended.

Likewise, SCE&G could now agree not to use the BLRA to try and avoid its financial responsibility. SCE&G could, instead, negotiate with the PSC (if they are still in office) and ORS (if director Dukes Scott somehow remains in office) and a host of stakeholders (including public interest groups) to determine the amount of cost that SCE&G must bear. But as SCE&G and ORS do not engage in such outreach - at least not to Friends of the Earth - this track is likely not viable.

The Worst Theater in Town: PSC Meetings, Unanimous Approval by Regulators at Every Downward Turn

In this brief, introductory *in absentia* testimony, I want to now focus on the record of regulators' unbridled support of every SCE&G request that came before the PSC since 2008.

As anyone who has attended a PSC hearing or meeting knows, the PSC members are not prone to asking probing questions. They have preferred to lob softball questions to company witnesses and at the same time give them congratulatory pats on the back. The failure by commissioners to thoroughly and critically review SCE&G and ORS documents and testimony has led to the situation now before us.

Sessions in which the PSC commissioners voted con cost overrun or rate-hike approval, where there is little discussion of the matters at hand, appear ill-scripted, sloppy and insulting. The presentation of motions and decisions to be made appear to be assigned so that each commissioner gets to make a motion, whether they can read through it without stumbling or not. As the stage management and execution is poor, PSC meetings come across at what could be called The Worst Theater in Town. Turns out that the mysterious stage manager has produced a flop of gigantic proportions in both the way the PSC conducts its business and the decisions it has made.

Rigged from the Start: Lack of Proper Oversight by the PSC and ORS Built In to their Methodology

The lack of intellectual curiosity and the devastating reflex by the Commission to passively accept what SCE&G and ORS have presented is in the record of all the formal proceedings. I will review one indicator here that shows that the Commission bought into the SCE&G tale at every step of the way. This can be seen by reviewing the voting record in key dockets on cost and schedule changes and the votes on the annual Baseload Review Act rate hikes. There have been nine BLRA rate hikes since February 2009, now comprising about 18% of an average SCE&G customer's bill.

Below is a listing of key cost-overrun and schedule-change dockets, including the first filing in 2008. The downward track of the project over time can be seen via information provided in the dockets, cursory as it has been, and in testimony by so-called experts and in the questioning of them.

1. [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,” filed by SCE&G on May 30, 2008

2. [Docket 2009-293-E](#): “South Carolina Electric & Gas Company's Update of Construction Progress and Request for Updates and Revisions to Schedules Related to the Construction of a Nuclear Base Load Generation Facility at Jenkinsville, South Carolina,” filed by SCE&G on July 20, 2009
3. [Docket 2010-376-E](#): “Petition of South Carolina Electric & Gas Company for Updates and Revisions to Schedules Related to the Construction of a Nuclear Base Load Generation Facility at Jenkinsville, South Carolina,” filed by SCE&G on November 10, 2010
4. [Docket 2012-90-E](#): “Petition of South Carolina Electric & Gas Company for Updates and Revisions to Schedules Related to the Construction of a Nuclear Base Load Generation Facility at Jenkinsville, South Carolina”, filed by SCE&G on February 29, 2012
5. [Docket 2012-203-E](#): “Petition of South Carolina Electric & Gas Company for Updates and Revisions to Schedules Related to the Construction of a Nuclear Base Load Generation Facility at Jenkinsville, South Carolina,” filed by SCE&G on May 14, 2012
6. [Docket 2015-103-E](#): “Petition of South Carolina Electric & Gas Company for Updates and Revisions to the Capital Cost Schedule and Schedules Related to the Construction of a Nuclear Base Load Generation Facility at Jenkinsville, South Carolina,” filed by SCE&G on March 13, 2015
7. [Docket 2016-223-E](#): “Petition of South Carolina Electric & Gas Company for Updates and Revisions to Schedules Related to the Construction of a Nuclear Base Load Generation Facility at Jenkinsville, South Carolina,” filed by SCE&G on May 26, 2016

I should point out that it was in Docket 2012-203-E in 2012 that the ORS and PSC rejected my request to require SCE&G to include a line-item on the bill to show the nuclear construction charges. On the Georgia Power bill, to pay for a similar project at the Vogtle site, the “Nuclear Construction Cost Recovery” charge is include on the bill so that ratepayers can see how much it is. The legislature, PSC and ORS must immediately take action to require the placement of that line-item on SCE&G bill and stop aiding SCE&G’s trickery in keeping the public poorly informed about how much they are paying.

A review of the decisions on these SCE&G dockets by the PSC reveals that the PSC uniformly approved what SCE&G requested, with minor changes suggested by ORS. There is no record of either a single negative vote nor the filing of any form of dissenting opinion by any PSC commissioner. The PSC unanimously stood with SCE&G despite public interest warnings - by Friends of the Earth or Sierra Club - in all of the dockets.

ORS checked off on all the decisions to approve the SCE&G requests, occasionally requiring minor changes. At no time did ORS recommend against a request by SCE&G nor did ORS file any dissenting opinions. Nor were any major changes suggested by ORS. It is thus obvious that ORS was a main

enabler of the cost-overrun and schedule-delay requests by SCE&G, thus sending the project into ever-deeper tailspins at key decision points since 2008.

So, it's clear that SCE&G tossed out the bait, ORS baited the hook and the PSC bit. The lack of comprehensive review and unquestioning acceptance of what SCE&G presented, even if based on inaccurate or incomplete information, has resulted in the biggest and most harmful bite of all: right out of SCE&G ratepayers' pocket book.

Pounding Captive Ratepayers: Annual, Automatic Rates Hikes under the Unjust BLRA, Courtesy of the South Carolina Legislature

Currently about 18% of the average SCE&G bill, or about \$27 dollars per month, are a result of the nine annual rate hikes under the unjust Baseload Review Act - to pay for SCE&G's financing costs of the nuclear project. This forced payment before the plant was on line has resulted in about \$1.7 billion having already been collected in advance from captive ratepayers by SCE&G.

Despite claims that advance payments would reduce the project's cost in the long term, the forced payments under the BLRA have resulted in the opposite: payment of \$1.7 billion in exchange for absolutely nothing delivered. The shifting of current costs onto future generations has made the claim totally ludicrous that money was being saved. Now, ratepayers have forked over the \$1.7 billion and rate collection at 18% of the bill continues. This billing should now cease.

A brief analysis of the ORS-reviewed and PSC-approved annual rate hikes is informative and reveals that all the rate hikes were unanimously approved and with ORS consent (occasionally after minor tweaking on the fringes).

The annual rate hikes under the BLRA can't be intervened against up front - more crafty work by utility lawyers who wrote the legislation and the SCE&G-controlled legislature. The rate hikes can only be opposed after they are approved by the ORS and then the PSC. The infamous nine rate hikes, in which SCE&G got essentially all it wanted are listed below.

1. **[Docket 2008-196-E](#): First rate hike was built into the original prudence docket before the PSC, May 30, 2008, rate hike 0.43%; 2009-2015 figures here from ORS – [document linked here](#))**
2. **[Docket 2009-211-E](#): South Carolina Electric & Gas Company's Annual Request for Revised Rates, May 29, 2009, rate hike 1.1%**
3. **[Docket 2010-157-E](#): Application of South Carolina Electric & Gas Company for Approval to Revise Rates under the Base Load Review Act, April 29, 2010, rate hike 2.31%**
4. **[Docket 2011-207-E](#): Application of South Carolina Electric & Gas Company for Approval to Revise Rates under the Base Load Review Act, May 23, 2011, rate hike 2.43%**
5. **[Docket 2012-186-E](#): South Carolina Electric & Gas Company's Annual Request for Revised Rates, April 26, 2012, rate hike 2.33%**

6. [Docket 2013-150-E](#): South Carolina Electric & Gas Company's Annual Request for Revised Rates, April 26, 2013, rate hike 2.87%
7. [Docket 2014-187-E](#): Application of South Carolina Electric & Gas Company for Approval to Revise Rates under the Base Load Review Act, April 29, 2014, rate hike 2.82%
8. [Docket 2015-160-E](#): Application of South Carolina Electric & Gas Company for Approval to Revise Rates under the Base Load Review Act, April 27, 2015, rate hike 2.59%
9. [Docket 2016-224-E](#): South Carolina Electric & Gas Company's Annual Request for Revised Rates, May 27, 2016, rate hike 3.1%

To underscore how egregious the ORS review of the rate-hikes request was, the PSC found in the October 26, 2016 approval that “ORS concluded that the project is being constructed in accordance with the construction schedules and cumulative cost forecasts approved in Order Nos. 2009-104(A), 2010-12, 2011-345, 2012-884, and 2015-661.”

But at that time there was NO Integrated Project Schedule (IPS) and NO valid cost estimate as Westinghouse would not turn them over. SCE&G confirmed in an ex parte briefing to the PSC on April 12, 2017 that it still had no IPS or cost estimate, yet it was still collecting money from ratepayers under the BLRA as if a schedule and cost estimate existed. The question of imprudent behavior related to not providing the IPS and cost estimate will be explored in future proceedings.

Much more can and will be said but here’s my initial conclusion: It’s time to make the company assume project costs and let the ratepayer off the hook for costs that resulted from poor project management and imprudent decisions by SCE&G, the PSC and ORS. The performance of responsible officials at those entities must now be reviewed, with subsequent removal from their positions.

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