

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2017-___-E

In Re: Prudence of South Carolina Electric & Gas Company Construction of a Nuclear Base Load Generation Facility at Jenkinsville, South Carolina and the Unjust and Unreasonable Rates Related Thereto)

**COMPLAINT OF
FRIENDS OF THE EARTH AND
SIERRA CLUB**

Friends of the Earth (FoE) and the Sierra Club (Sierra), on behalf of their members who are being, and will be, adversely affected by the acts and omissions of South Carolina Electric & Gas Company (SCE&G) in connection with its continued construction of the V.C. Summer Nuclear Station, Units 2 and 3, a nuclear base load generation facility under construction at Jenkinsville, South Carolina (the Project), and the unjust and unreasonable rates related thereto, hereby complain pursuant to S.C. Code Sections 58-27-960, 58-27-1930, 58-33-275(E) and Rules R. 103-824 and 103-825 of the Commission's Rules and Regulations, and request that the Commission initiate a formal adjudicatory proceeding to determine the prudence of acts and omissions by SCE&G in connection with the project; to consider and determine the prudence of abandonment of the subject Project and of the available least cost efficiency and renewable energy alternatives; and to remedy, abate and make due reparations for the unjust and unreasonable rates to be charged to ratepayers related

thereto. In light of recent developments, including the bankruptcy of the project's prime contractor, Westinghouse, the insolvency of its corporate parent and contract guarantor, Toshiba; and the unknown but excessive and imprudent additional capital costs required to complete the Project, FoE and Sierra Club request that the Commission order and direct SCE&G to cease and desist from expending any further capital costs related to the Project; and, further, requests that the Commission determine, after notice and a full and fair opportunity to be heard, the prudence of alternative future actions regarding the Project, including, but not limited to: Project abandonment and replacement with least cost alternative resources such as comprehensive energy efficiency measures, and utility scale renewable generation. Finally, FoE and Sierra Club request that the Commission determine just and reasonable rates associated with the prudent alternative to the Project, fairly and appropriately apportioning risk and responsibility to SCE&G and its stockholders while protecting ratepayers from and ordering reparation for the unjust and unreasonable rate impacts of utility imprudence related to the Project.

In support of this Complaint, FoE and Sierra Club would respectfully show:

1. FoE is a non-profit environmental advocacy organization with members in all the 50 states including South Carolina and its headquarters in Washington, DC. FoE is affiliated with Friends of the Earth International, the world's largest environmental advocacy network with member organizations in 70 countries. FoE has worked for over 40 years to promote a healthy and just world and has been a leading advocate for safe and sustainable energy. It has worked to show how it is possible to shift the U.S. and global economies to a cleaner energy basis, using the latest in efficiency

improvements, along with renewable energy sources such as wind, geothermal, and solar power. Members of FoE are ratepayers of SCE&G and neighbors of the site of the proposed nuclear facility. Members of FoE live, work, travel, recreate, use and enjoy natural resources in the vicinity of the proposed nuclear facility. They breathe the air, drink and use the water, eat food grown in the vicinity of the proposed project. FoE participated in the initial proceeding before this Commission opposing approval of this Project. FoE's members would be harmed by the continued construction of the subject Project because of unwarranted increases in their electric rates, reduced reliability of their electric service, risk to their health and safety from routine and accidental releases of radiation, and harm to their use and enjoyment of natural resources which will be adversely affected by the Project, the subsequent costs associated with this project, and the construction and operation of the proposed nuclear facility.

2. The Sierra Club is the oldest and largest non-profit grassroots environmental organization in the world with some 750,000 members, 65 Chapters, over 400 local groups. The South Carolina Chapter has seven local groups with more than 5,000 members across the state. The Club's mission is to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. The Club and its members actively promote safe energy solutions including energy efficiency and renewable energy resources to combat the climate crisis and to protect human health and the natural environment. The organization has

been actively involved in a variety of issues involving nuclear power production and nuclear waste disposal in South Carolina including several proceedings before this Commission regarding cost overruns and schedule delays involving this Project. The South Carolina Chapter of the Club has offices and meeting space at 1314 Lincoln Street, Columbia, South Carolina 29201. Members of the Sierra Club are customers of SCE&G, Santee-Cooper and the electric cooperatives of South Carolina who live, work, recreate and use natural resources near the existing Summer nuclear plant and the site of the proposed Summer reactors and pay electric rates related to the Project.

Members of the Sierra Club would be harmed by the continued imprudent acts and omissions of SCE&G related to the Project, including the continued expenditure of capital costs above and in excess of those approved by the Commission which will result in additional unjust and unreasonable electric rates, reduced reliability of their electric service, and the displacement of environmentally superior energy efficiency and renewable energy production alternatives.

3. FoE and Sierra Club are informed and believe that inevitable construction schedule delays and the capital cost schedule increases now facing the Project are material and adverse deviations from the Commission approved schedules which the utility failed to anticipate or avoid; and which are, therefore, the result of imprudence on the part of the utility, considering the information available at the time the utility could have acted to avoid the deviation or minimize its effect, all contrary to S.C. Code Sections 58-33-225 (E)(F) and (G) and 58-33-(270(E) and 58-33-275(E). Sierra Club is informed and believes that SCE&G intends to incur material additional capital costs and schedule delays without first seeking Commission approval.

4. SCE&G has asserted that it can continue expending material additional capital costs on the Project, at its sole management discretion, for an additional period of three (3) years pursuant to the latest Settlement Agreement and Commission Order, objected to by Sierra Club; and that, only thereafter, it intends to seek Commission approval to compel ratepayers to bear these additional capital costs through unjust and unreasonable increased rates.

5. SCE&G admitted during the Commission Ex Parte Briefing on April 12, 2017, that even after eight years since initial Commission approval of the Project in 2009, no final cost estimate and no construction schedule exist for the Project. Nevertheless, SCE&G also acknowledged that it is continuing to fund construction of the Project at a rate of approximately \$120 million per month. The most recent Commission approved "substantial completion" dates for the Project, Unit 2, is August 31, 2019 and Unit 3, is August 31, 2020, as determined in Commission Order 2016-794. These dates are now wholly unrealistic and unattainable as SCE&G affirmed in a public statement on February 14, 2017, over a month before Westinghouse declared bankruptcy, stating that "WEC provided SCE&G with revised in-service dates of April 2020 and December 2020 for Units 2 and 3, respectively." SCE&G has not demonstrated that either the official or informal substantial completion dates are credible. Given that SCE&G reported in its May 5, 2017, Quarterly Report to the Office of Regulatory Staff, that construction of the reactors was only 34.3% complete, it is inconceivable and imprudent to assume that the Project can be completed by either the Commission approved or informally reported Westinghouse completion dates. Materially adverse further construction and capitol cost schedule erosion for the Project is likely.

6. In Order 2016-794, the PSC approved an additional cost overrun of \$831.1 million and officially determined that the “anticipated cost” of the SCE&G share of the project was \$7.658 billion, a 12% increase over the cost “forecast” of \$6.8 billion just two years earlier, as approved in Order No. 2015-661. The cost of \$7.658 billion for the SCE&G’s 55% share of the Project translates into an overall Project cost of about \$13.9 billion. Order No. 2016-794 has been claimed by some to guarantee a “fixed cost” of \$7.658 billion to consumers. That amount is now highly suspect given the declaration of bankruptcy by Westinghouse which may render both the Westinghouse EPC Contract and the associated “Settlement Agreement” void and unenforceable. Neither SCE&G nor any party to the Settlement Agreement has represented the current status of the “fixed price contract” and Settlement Agreement to be a legally binding “guarantee” that the cost of the Project has been fixed for ratepayers. A Morgan Stanley analysis entitled “Implications of Potential Westinghouse Bankruptcy Filing,” dated March 22, 2017, projects that SCE&G’s share of the cost for the the project is \$12.6b, about \$6.5b or 108% above the original construction cost estimate. This cost of the SCE&G share translates into an overall project cost of about \$22.9 billion. Given the anticipated cost increase of the Project since Order No. 2016-794, costs that Westinghouse and Toshiba will not likely bear, it is urgent that a full Commission review of Project costs, alternatives and remedial measures to protect ratepayers be initiated immediately in a formal proceeding.

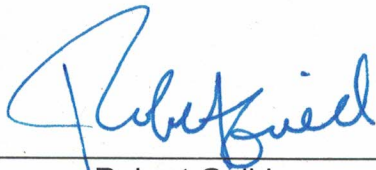
7. Ratepayers of SCE&G already pay the highest residential electric bills in the country for customers of comparable investor owned utilities; with the exceptions only of four (4) very small and remote island utilities, e.g. those serving the islands of

Nantucket and Maui. Our neighbors in Georgia (\$127.39) and North Carolina (\$127.02) pay far less than the \$160.61 we pay per month on average to SCE&G, according to 2015 US DOE data. The 2016 national average residential electric bill was only \$112.25. Of our bills here, some 18% or \$27.00 per month already pays the financing costs of this failing nuclear Project. These record utility bills are the product of high SCE&G rates related to this project and high consumption: we often heat and cool the great outdoors in our poorly insulated housing stock, while SCE&G resists energy efficiency measures that would save their ratepayers wasted consumption and wasted dollars. Absent Commission remedial action requested here such rates will be unjust and unreasonable contrary to S.C. Code Sections 58-27-810 and 58-27-960. The Commission is empowered and responsible for ascertaining and fixing just and reasonable rates, S.C. Code Section 58-27-140, and for ordering the payment of due reparations to ratepayers for rates charged which are determined to have been unjust and unreasonable. S.C. Code Section 58-27-960.

WHEREFORE: For the foregoing reasons, Fiends of the Earth and Sierra Club, on behalf of their members who will be adversely affected by the acts and omissions of SCE&G related to this Project hereby complain pursuant to S.C. Code Sections 58-27-960, 58-27-1930, 58-33-275(E) S.C. and Rules R. 103-824 and 103-825 of the Commission's Rules and Regulations, and request that the Commission initiate a formal adjudicatory proceeding to:

1. Direct SCE&G to immediately cease and desist expending any further capitol costs related to the Project;

2. Determine the prudence of acts and omissions by SCE&G in connection with the Project;
3. Review and determine the prudence of abandonment of the subject Project;
4. Review and determine the prudence of the available least cost efficiency and renewable energy alternatives to the Project for meeting the energy needs of ratepayers;; and
5. Remedy, abate and provide reparations to ratepayers to address the unjust and unreasonable rates charged to ratepayers related to this failed Nuclear Project.



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