AARP hereby submits its Prehearing Brief, reserving the right to supplement the positions and arguments contained herein, based upon subsequent filings and further developments at the hearing.
AARP’s sole interest in these consolidated cases is the protection of residential electric households who are captive to the rates and charges set by the Public Service Commission (“Commission”), including the interests of those residential customers who are aged 50 and over, who can be more vulnerable to increases in energy prices. AARP fights for affordable utility prices because it is one of the issues that matter most to its members. AARP has over 625,000 members in South Carolina, many of whom are residential electric customers of South Carolina Electric & Gas Company (“SCE&G” or “Company”).

The most crucial issue to be determined by the Commission in each of these consolidated dockets is the matter of how to divide up the costs that SCE&G has incurred for the construction of the abandoned V.C. Summer Units 2 and 3 (“Project” or “NND Project”), between the utility that was responsible for that Project and its captive ratepayers who were not responsible for the failure of that project. In addition, the Commission has consolidated this matter with the proposed merger of SCE&G and Dominion Energy, Inc. (“Dominion” collectively “the Companies”).

Statement of Facts

Starting in 2008, a consortium headed by Westinghouse Electric Company was contracted by SCE&G and the South Carolina Public Service Authority (“Santee Cooper”) to construct the Units. Over the course of the following nine years, and through several changes in the makeup of the Consortium, the customers of SCE&G were subjected to nine electric rate increases tied to the financing of the Project under the South Carolina Base Load Review Act (“BLRA”). Roughly $2.2 Billion of costs are still included in SCE&G
electric rates relating to a partially constructed plant that is neither “used” nor “useful” and which is unlikely to ever provide a benefit to customers. On July 31, 2018, Santee Cooper and SCE&G announced that they were abandoning the Project. In addition to the $2.2 Billion already included in current electric rates, the Companies claim that the actions of SCE&G were prudent and thus they are entitled to a 10.25% profit (Return on Equity or “ROE”) on the approximately additional $3.0 Billion in stranded costs for the Project.

Since the abandonment of the Project, a significant amount of information has been revealed to the Commission and to the general public regarding the mismanagement of the Project and of efforts by the utilities to keep that information from the public. Much of this new information has been pre-filed and will be offered into the record of these dockets at the hearing. AARP continues to believe that the general public deserves to hear the entire story of what went wrong with the Project. AARP is thankful to the Office of Regulatory Staff (“ORS”) for its efforts to shine a light on that information and to the Commission for the decisions it has made so far in these dockets to reveal these secrets to the public by removing certain confidential designations that had been placed on that information by SCE&G.

AARP is also thankful to the Commission for the three local public hearings that were held in these cases on the evenings of September 24, 2018, at the Commission’s Offices in Columbia, October 8, 2018 in Aiken, South Carolina, and October 15, 2018 in North Charleston, South Carolina, allowing a convenient way for ordinary electric consumers to testify to the Commission about how the BLRA rate increases have affected their lives.
AARP pre-filed the written direct testimony of expert witness Scott Rubin in these cases on September 18, 2018, and his written surrebuttal testimony will be filed on Monday, October 29, 2018. Mr. Rubin, who has 35 years of utility policy experience, performed an independent analysis of the facts surrounding the Project and recommends that the Commission apply well-established ratemaking principles, including the “used and useful” principle and prudence requirements, when deciding these cases. Mr. Rubin is scheduled to take the witness stand on Monday, November 12, 2018.

Statement of Law

SCE&G electric rates already include approximately $2.2 Billion in Project costs, approved through the BLRA. However, the Base Load Review Act’s stated purpose was “to provide for the recovery of prudently incurred costs associated with new base load plants” and to “protect . . . customers of investor-owned electrical utilities from responsibility for imprudent financial obligations or costs.”1 That BLRA, which was in effect during the construction of the Project, has been repealed by the South Carolina Legislature. As the Commission is no doubt aware, the now-repealed BLRA is also constitutionally suspect, and it may ultimately be overturned in the courts due to a violation of constitutional due process. AARP agrees with the constitutional critics that the BLRA did not give consumers a full and fair opportunity to challenge the prudence of the Project.

However, regardless of the validity of the old BLRA, the Commission has an overriding legal obligation to ensure “just and reasonable” rates prospectively, by

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1 2007 Act No. 16, Section 1(A) (emphasis added).
protecting the ratepaying public from paying for imprudent, unreasonable, and/or fraudulently incurred utility costs:

Section 58-27-810. Rates shall be just and reasonable. “Every rate made, demanded, or received by any electric utility or by any two or more electric utilities jointly shall be just and reasonable.”

Objections to Exhibits

AARP has not identified any objections to any of SCE&G or Dominions exhibits filed with their Direct or Rebuttal testimonies filed prior to this week. AARP is still reviewing the filings made this week, and reserves the right to make objections at the hearing related to the authenticity of certain newly-filed testimony and accompanying exhibits, or to lodge objections related to developments that occur during the hearing. As a general rule, AARP believes that the Commission should employ a permissive evidentiary standard to allowing into the record the relevant data and information that each party believes the Commission should take into consideration as it makes its decision in these very important cases.
Conclusion

The November 1, 2018 hearing in these cases will be closely watched by the general public, and the decision issued in these cases will have a dramatic impact upon the lives of many households which struggle to pay their monthly utility bills. AARP believes that SCE&G’s residential customers deserve to pay no more than “just and reasonable” electric rates, and it is committed to advocating in these cases for the best possible outcome for those consumers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to official service list in 2017-207-E, 2017-305-E, and 2017-370-E at the South Carolina Public Service Commission, on this 26th of October, 2018.

s/ Adam Protheroe