STATE OF SOUTH CAROLINA

Combined Application for Certificate of Environmental Compatibility, Public Convenience and Necessity and for a Base Load Review Order for the Construction and Operation on a Nuclear Facility at Jenkinsville, South Carolina

BEFORE THE
PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

COVER SHEET

DOCKET NUMBER: 2008 - 196 - E

(Please type or print)

Submitted by: K. Chad Burgess
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DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission’s Agenda expeditiously

☐ Other:

<table>
<thead>
<tr>
<th>INDUSTRY (Check one)</th>
<th>NATURE OF ACTION (Check all that apply)</th>
</tr>
</thead>
<tbody>
<tr>
<td>☒ Electric</td>
<td>☒ Letter</td>
</tr>
<tr>
<td>☐ Electric/Gas</td>
<td>☐ Request</td>
</tr>
<tr>
<td>☐ Electric/Telecommunications</td>
<td>☐ Request for Certification</td>
</tr>
<tr>
<td>☐ Electric/Water</td>
<td>☐ Request for Investigative</td>
</tr>
<tr>
<td>☐ Electric/Water/Telecom.</td>
<td>☐ Resale Agreement</td>
</tr>
<tr>
<td>☐ Electric/Water/Sewer</td>
<td>☐ Resale Amendment</td>
</tr>
<tr>
<td>☐ Gas</td>
<td>☐ Reservation Letter</td>
</tr>
<tr>
<td>☐ Railroad</td>
<td>☐ Response</td>
</tr>
<tr>
<td>☐ Sewer</td>
<td>☐ Response to Discovery</td>
</tr>
<tr>
<td>☐ Telecommunications</td>
<td>☐ Return to Petition</td>
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<td>☐ Transportation</td>
<td>☐ Stipulation</td>
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<td>☐ Water/Sewer</td>
<td>☐ Tariff</td>
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<td>☐ Administrative Matter</td>
<td>☐ Other:</td>
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</tr>
</tbody>
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July 14, 2008

VIA ELECTRONIC FILING

The Honorable Charles Terreni
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive (29210)
Post Office Drawer 11649
Columbia, South Carolina 29211

RE: SCE&G’s Combined Application for Certificate of Environmental Compatibility, Public Convenience and Necessity and for a Base Load Review Order: Petition for an Order Permitting Commencement of Construction Activities
Docket No. 2008-196-E

Dear Mr. Terreni:

South Carolina Electric & Gas Company (“SCE&G”) is writing in response to the letter filed in this docket on July 11, 2008, by Mr. Tom Clements, Southeastern Nuclear Campaign Coordinator for Friends of the Earth. The letter seeks to delay consideration of the Petition for an Order Permitting Commencement of Construction Activities filed in this matter on May 30, 2008, until a decision on the merits of the Combined Application under the Base Load Review Act.

SCE&G supports the determination of the South Carolina Public Service Commission (“Commission”) to take this matter up for decision based on written comments. That determination was set forth in the Commission’s Notice and Deadline for Comments regarding this matter, dated June 16, 2008. A decision based on written comments is fully consistent with the limited nature of the interim construction authorization being requested and the statutory structure under which the request is made. That statutory structure does not impose any requirement for a contested case hearing in such matters. See S.C. Code Ann. § 58-33-110(7) (1976).

Mr. Clements asks for a delay in the Commission’s consideration of this matter based on the unavailability of his legal counsel on July 16, 2008, the date the Commission has scheduled its vote on this matter. Because the Commission has decided to review the case on written comments, and because the deadline for those comments passed on June 30, 2008, SCE&G questions why the unavailability of Friends of the Earth’s counsel on July 16, 2008, represents a valid reason to delay consideration of this matter. SCE&G would also note that this request for relief notwithstanding, the Friends of the Earth has not yet intervened as a party in this docket nor has the counsel to whom Mr. Clements refers made any appearance in the proceeding.

(Continued . . .)
Several other matters in Mr. Clements’s letter require comment. SCE&G has filed the request for authorization for interim construction under S.C. Code Ann. § 58-33-110(7) (1976). That statute allows interim construction to begin on a major utility facility where the statutory standard of “public convenience and necessity” is met. Moreover, the statute requires that the interim construction proceed at the applicant’s “own risk” and that “permission shall not in any way indicate approval by the Commission of the proposed site or facility.”

The only evidence of record on in this matter is contained in the affidavits of Dr. Joseph M. Lynch and Mr. Alan Torres.

Mr. Torres is the Construction Manager for V.C. Summer Nuclear Station (“VCSNS”) Units 2 & 3. Mr. Torres’ affidavit summarizes the necessity of the requested relief as follows:

As indicated in the Affidavit of Dr. Joseph M. Lynch which is also being supplied to the Commission, SCE&G will need the capacity represented by the Facility to be available for the summer peak period in 2016. However, it is my understanding that under the terms of the Base Load Review Act, the final order allowing approving construction for the Facility is not due to be issued until February of 2009. Our principal contractors and suppliers, Westinghouse and Stone & Webster cannot meet their completion deadlines for VCSNS Unit 2 unless site work and initial construction is underway before then. Delaying the start of this initial clearing, excavation and construction work would only place additional pressure on the construction schedule and risk delays and increased costs for the work.

In addition, Mr. Torres states:

SCE&G is scheduled to replace the main step-up transformer at VCSNS Unit 1 during Refueling Outage 18 at that unit which is scheduled for the fall 2009. The existing transformer has been in service for over 25 years and requires replacement for reasons of reliability. The most practical and efficient means to deliver the new transformer to the site is by rail. To permit clearing and grading of the site for Units 2 & 3, the rail line serving VCSNS Unit 1 must be dismantled and rebuild once the new site contours are established. Clearing and grading for Units 2 & 3 must being very shortly for the rail line to be available for delivery of this replacement transformer as scheduled.

These affidavits clearly establish that public convenience and necessity justify the requested authorization.
In its letter of June 23, 2008, the South Carolina Office of Regulatory Staff ("ORS") indicates that it does not object to issuance of the relief requested. ORS is the only party to this proceeding that has submitted comments to the Commission concerning SCE&G's petition.

Ultimately, Mr. Clements' request is that a decision on the petition for interim construction authorization be delayed and "incorporated into the application for the rate increase" [i.e., the review of the Combined Application under the Base Load Review Act]. However, the petition is a petition for interim construction authorization pending the issuance of the final order under the Base Load Review Act. To delay action on this petition until a hearing on the Combined Application occurs is to deny altogether the interim authorization that SCE&G is requesting. Mr. Clements' request is in fact a request for a ruling on the ultimate merits of the petition. Accordingly, there is no reason for the Commission not to take up SCE&G's petition on the merits and conclusively decide it at this time.

For these reasons, SCE&G respectfully requests that the Commission take up this matter at its meeting scheduled for July 16, 2008, and grant SCE&G the relief requested.

Very truly yours,

K. Chad Burgess

KCB/kms

cc:  Nanette S. Edward, Esquire
     Shannon Bowyer Hudson, Esquire
     Scott Elliot, Esquire
     E. Wade Mullins, Esquire
     Joey R. Floyd, Esquire
     Damon E. Xenopoulos
     Mildred A. McKinley
     Tom Clements (not a party of record)
BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2008-196-E

IN RE:

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

CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one (1) copy of South Carolina Electric & Gas Company's Letter dated July 14, 2008 to the persons named below (who are parties of record) and in the manner described:

Shannon Bowyer Hudson, Esquire
Office of Regulatory Staff
1441 Main Street, Suite 300
Columbia, SC 29201
shudson@regstaff.sc.gov
(via electronic mail and U.S. First Class Mail)

Nanette S. Edwards, Esquire
Office of Regulatory Staff
1441 Main Street, Suite 300
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Scott Elliott, Esquire
Elliott & Elliott
721 Olive Street
Columbia, SC 29205
selliot@elliottlaw.us
(via electronic mail and U.S. First Class Mail)
This is to certify that I have caused to be served this day one (1) copy of South Carolina Electric & Gas Company’s Letter dated July 14, 2008 to the person named below (who is not a party of record) and in the manner described:

Tom Clements
Southeastern Nuclear Campaign Coordinator
Friends of the Earth
1112 Florence Street
Columbia, South Carolina 29201
Tomclements329@cs.com
(via electronic mail and U.S. First Class Mail)
Columbia, South Carolina
This 14th day of July 2008