Friends of the Earth

June 30, 2008

Mr. Charles Terreni
Chief Clerk and Administrator
Public Service Commission of South Carolina
Docketing Department
101 Executive Center Drive
Columbia, South Carolina 29210

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Re: Docket 2008-196-E, Recommendation for Denial of SCE&G Petition for PSC Permission "to conduct initial clearing, to excavate and to perform construction work for two 1,117 megawatt nuclear facilities to be located at the V.C. Summer Nuclear Station (VCSNS) site near Jenkinsville, South Carolina"

Dear Mr Terreni:

I am hereby responding to the June 16 notice on the website of the Public Service Commission of South Carolina in which comments were solicited concerning the petition by South Carolina Electric and Gas (SCE&G) for permission "to conduct initial clearing, to excavate and to perform construction work for two 1,117 megawatt nuclear facilities to be located at the V.C. Summer Nuclear Station (VCSNS) site near Jenkinsville, South Carolina."

This letter is being submitted on behalf of members of Friends of the Earth who live within the SCE&G service area and who have expressed concern about the request by SCE&G. Given the rate shock faced by members of Friends of the Earth and other rate payers within the SCE&G service area due to the reactor project, it is imperative that the PSC review any request by SCE&G to build new nuclear reactors with appropriate deliberation.

I thank the Commission for issuing the notice soliciting comments from the public impacted by the initial clearing, excavation and construction work related to expensive project that SCE&G has presented in its Combined Application For Certificate of Environmental Compatibility, Public Convenience and Necessity And For a Base Load Review Order. Given large rate hikes, adverse environmental impacts and negative impacts to SCE&G's Demand Side Management programs faced by members of Friends of the Earth and other SCE&G rate payers, it is imperative that processes be established by the PSC which allow the voice of the impacted public to be heard on an equal footing with that of the petitioning company.

Any decision to allow site clearing and construction should only be made in conjunction with the decision to allow the rate increase requested by SCE&G to build the new reactors. While SCE&G presents that its schedule to build the reactors will be negatively impacted if the

1717 Massachusetts Avenue, NW • Suite 600 • Washington, DC 20036-2008
202.783.7400 • 202.783.0444 fax • 877.843.8687 toll free • www.foe.org

311 California Street • Suite 510 • San Francisco, CA 94104-2607
415.544.0790 • 415.544.0796 fax • 866.217.8499 toll free

decision is not now made to allow the project to begin, this claim is not substantiated. Allowing site clearance and construction to move forward is a major decision which must be made only after receipt of more detailed written and oral testimony.

In the recent case by the PSC in which Duke requested approval to incur "preconstruction costs" for its new reactors, a detailed process involving expert witnesses took place. Although SCE&G is not asking for approval to incur costs and claims that it will assume the risk if its actions are not deemed prudent, the decision to allow the project to go forward without any type of hearing or provision of further information would be negligent on part of the PSC. The PSC must guarantee that a full airing of the request be made.

Short of not making a decision until the rate case docket is concluded, I hereby request that a hearing be held on the prudence of granting the petition by SCE&G to seek "to commence site and construction work." I further request that notice of such hearing be made with at least twenty days advance notice, with opportunity for the public to comment.

At such hearing, I request that the public impacted by higher electricity rates, by the diversion of funds into the high-cost nuclear option, by elimination by SCE&G of the low-cost energy and efficiency option, by grave impacts to the quality and quantity of water in the Broad River, by impacts of nuclear waste generation and potential of accidents of the experimental AP1000 reactor design be allowed to speak on the record. I further request that provision be made for the public to question SCE&G officials concerning their plans.

I present the following points on SCE&G's petition to the PSC:

1. SCE&G's petition to begin site clearing and construction is premature as the company has not demonstrated that it is "justified by public convenience and necessity." It is only via a public hearing that argumentation as to prudence of allowing site clearing and construction to proceed can be aired. It is incumbent upon the Commission to clearly spell out the steps in making a "public convenience and necessity." In the ultimate sense, it is really only via the hearing process on the larger Combined Application that such a determination can be made.

2. In the petition, SCE&G fails to define what constitutes "construction" and it is incumbent upon the PSC to seek a full explanation from the company as to what it is planning to do. Such information is lacking in the SCE&G petition, which renders it incomplete and deficient. While the Baseload Review Act defines "preconstruction," there is no such definition for construction, which clearly could encompass more than "preconstruction," and could actually entail construction of buildings associated with reactors operation, such as water in-take structures or other buildings. The company must be constrained from actually starting construction given the likelihood that those costs, for which no prudence decision will have been made, could be eventually be included in the rate base.

It is unclear if long lead time items are covered in the SCE&G petition and this must be clarified. Such items constitute construction and down payment on them must not be allowed lacking a prudence decision.

3. In a "Form 8-K, CURRENT REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934," filed with the Securities and Exchange Commission (SEC) on May 23, 2008, SCE&G states the following:

> Under the terms of the EPC contract, Westinghouse Electric Company LLC and Stone & Webster, Inc., a subsidiary of The Shaw Group, Inc. (Westinghouse Electric Company LLC and Stone & Webster, Inc. together, the Contractors), will provide design, engineering, procurement, and construction services for two 1,117-megawatt nuclear electric-generating units. The work contemplated by the EPC contract will be conducted in two phases. Although limited site preparation activities may be approved to occur early, SCE&G will not commence substantive construction of the nuclear units until after SCE&G has obtained all necessary licenses and permits, including an order from the SC PSC granting it a certificate of environmental compatibility and public convenience and necessity (the above-mentioned BLRA order). Phase I will include, among other things, engineering and other services required to support the Owner's licensing efforts for the units, design work, project management, engineering and administrative support to procure long lead time equipment, construction mobilization and site preparation. Phase II will encompass the remainder of the work required to complete the units and will begin with the Owner's issuance to the Contractor of a written authorization to proceed with the remainder of the work (Full Notice to Proceed). While the Full Notice to Proceed may be issued prior to the receipt by the Owner of a COL from the NRC, certain critical aspects of the work may not be performed unless and until a COL is received.

This filing with the SEC differs from the petition filed with the PSC. While the SEC filing mentions that early approval might be secured for "site preparation" activities, the filing with the PSC is far more expansive and requests permission "to conduct initial clearing, to excavate and *to perform construction work.*"

The SEC filing also mentions "Phase I" activities, which include a list of activities, including "construction mobilization and site preparation." While the filing also states that "SCE&G will not commence substantive construction of the nuclear units until after SCE&G has obtained all necessary licenses and permits, including an order from the SC PSC granting it a certificate of environmental compatibility and public convenience and necessity," it is unclear what activities the company considers to be part of Phase 1 work.

SCE&G has failed to explain exactly what activities it intends to perform under its petition and such work is further clouded by the SCE filing. Thus, the PSC

must conduct a formal process to determine exactly what SCE&G intends to do, including amount of site clearing, excavation, and construction which will take place and if licenses to conduct such activities are secured by state environmental regulatory authorities. Expenses incurred in these various activities must also be provided to the PSC.

4. The company has stated that it will assume the risk of the site clearing and construction activities. Such activities may be allowed, though not required, under the BLRA. Any PSC decision allowing such activities brings with it an implication of pre-judging the prudence of the entire project. I respectfully submit that PSC approval of the petition at this point could prejudice the proceedings and that the Commission use its authority to deny the request at this time.

   Additionally, the cost presented for the two units appears much lower than is being discussed for other units of the same design. Before any determination is made on site clearance and construction, a full airing of the accuracy of the cost estimate and rate impacts and what it entails must take place.

   Energy efficiency and conservation delivers much more energy per dollar spent than investment in costly new reactors, yet SCE&G's analysis of such alternatives and renewables energy is cursory at best. The Commission must require a full analysis of the alternatives be presented and not accept the discussion in the application. Before any site clearing and construction petition is even considered, SCE&G must present a rigorous analysis of the alternatives, including the least-cost conservation options, with cross-examination allowed on behalf of the public interest.

5. The Base Load Review Act, in Section 58-33-120(2) states "Each application shall be accompanied by proof of service of a copy of the application on the Office of Regulatory Staff, the chief executive officer of each municipality, and the head of each state and local government agency, charged with the duty of protecting the environment or of planning land use, in the area in the county in which any portion of the facility is to be located."

   We have no proof that the application was so delivered and no proof that the separate petition "to conduct initial clearing, to excavate and to perform construction work" has been provided to those to whom it is required. We request that the PSC obtain from the company proof as to the filing of both the larger application and the petition under discussion in the moment. Such proof must be posted on the PSC website and be evident before consideration of the petition can be made.

   Additionally, SCE&G stated in a letter dated June 18and filed with the PSC that "publication of the Notice" of the application "could be published in newspapers by June 30" and that a "bill insert" about the application would be mailed in the

electric bill and that "all customers will be provided with a copy of the Notice by July 31, 2008."

Thus, the general public will not be made aware via newspapers of the larger application nor of the petition at hand until a date around June 30 at the earliest and via SCE&G bills by July 31. Notification by those dates of both the application and the petition, which itself must be clearly and distinctly noticed, is far too late for SCE&G rate payers and the public to be aware of the application and petition and to respond to the PSC solicitation of comments on the petition by June 30. These notices must clearly advise the public and rate payers about the petition being filed and explain what it is.

The PSC must require of SCE&G that public notice be made of the petition with ample time for rate payers and the public to respond. Lacking proper notification of the petition, which constitutes a significant subset of the application, means that the public is denied due process. The PSC must deny consideration of the petition request at least until such time as the company has provided public notice of it.

6. In its petition, SCE&G claims under in point number 4 - Need to Commence Site and Construction Work - that the company must begin "site work and initial construction" now or it will not be able to meet the construction deadlines of Westinghouse and Stone & Webster. This is merely a presentation by the company and no proof is offered to this point in the petition. Additionally, it is not incumbent upon the PSC to guarantee that SCE&G meet any construction schedule or legal obligations, rather only that the pertinent laws are followed.

7. SCE&G argues point number 5 - "Replacement of the VCSNS Unit 1 Transformer" - that this bears upon the decision by the PSC to consider granting approval "to conduct initial clearing, to excavate and to perform construction work." The replacement of the transformer and the timing of such work is totally irrelevant to the issue at hand – beginning of a project which will strap rate payers with a large financial burden. The PSC must rule out consideration of this argumentation in consideration of the petition.

   Inclusion of point number 5 may actually reveal that the company has other ulterior motives totally unrelated to the application and to the petition in requesting approval "to conduct initial clearing, to excavate and to perform construction work. Just how important a role other activities not related to the new reactors play must be explored in a hearing.

8. Just as SCE&G has requested that consideration of its Integrated Resource Plan be done at the same time as consideration of the rate case (docket 2008-196-E), the decision to consider site preparation and construction activities likewise can be done at the same time. There is no rush to consider a petition which could result in harm to the public if approved without a long and deliberative process.

I respectfully submit these comments and, in conclusion, request that the petition be denied due to deficiencies in it and request that this matter be included as part of the discussion of the application for rate increase. If such a decision is not made, then I request that a stand-alone hearing be held on the petition.

Sincerely,

Tom Clements
Southeastern Nuclear Campaign Coordinator
1112 Florence St.
Columbia, SC 29201