November 21, 2017

VIA ELECTRONIC FILING
Jocelyn Boyd, Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

Re: Request of South Carolina Office of Regulatory Staff for Rate Relief to SCE&G Rates Pursuant to S.C. Code Ann. §58-27-920
Docket No. 2017-305-E

Dear Ms. Boyd:

Enclosed for filing please find a Response in Opposition to SCE&G Motion to Dismiss and in Support of Office of Regulatory Staff Petition on behalf of Speaker James H. “Jay” Lucas in the referenced docket. By copy of this letter we are serving same on the parties of record. Please contact me if you have any questions.

Sincerely,

Robert E. Tyson, Jr.

Enclosures

cc: via email:
Counsel of Record

1310 Gadsden Street | PO Box 11449 | Columbia, SC 29211
MAIN 803 929.1400 | FAX 803 929.0300
SOWELL GRAY ROBINSON STEPP & LAFFITTE, LLC SOWELLGRAY.COM
BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

In Re: Request of the South Carolina Office of Regulatory Staff for Rate Relief to SCE&G Rates Pursuant to S.C. Code Ann. § 58-27-920
Docket No. 2017-305-E

SPEAKER JAMES H. "JAY" LUCAS' RESPONSE IN OPPOSITION TO SCE&G MOTION TO DISMISS AND IN SUPPORT OF OFFICE OF REGULATORY STAFF PETITION

Pursuant to Public Service Commission Regulation 103-829 and Order No. 2017-58-H, James H. "Jay" Lucas, in his official capacity as Speaker of the South Carolina House of Representatives (hereinafter "Speaker Lucas") hereby submits this Response in Opposition to South Carolina Electric & Gas ("SCE&G") Motion to Dismiss and in support of Office of Regulatory Staff Request ("ORS") for an order immediately suspending all revised rates collected from customers. This response focuses solely on whether SCE&G failed to disclose relevant information that could have impacted the revised rates proceedings.

INTRODUCTION

On September 29, 2017, Speaker Lucas filed a petition to intervene in this docket. The PSC granted his petition by Order dated October 11, 2017.

The ORS Request seeks to suspend SCE&G's collection of revised rates collections from SCE&G's customers. Pursuant to the Base Load Review Act, SCE&G annually used the revised rates' proceeding. Specifically, SCE&G requested nine annual rate increases of which all have been approved. On September 26, 2017, the South Carolina Attorney General issued an opinion whereby he concluded that portions of the Base Load Review Act are "constitutionally suspect."
The ORS argues, “based on the Attorney General’s conclusion, it is not just and reasonable or in the public interest to allow SCE&G to continue collecting revised rates.” (Request, ¶ 16.)

Further, ORS stated, “it is being alleged that SCE&G failed to disclose information that should have been disclosed and that would have appeared to provide a basis for challenging prior requests. SCE&G should not be allowed to benefit from nondisclosure.” (Request, ¶ 17.) In support of its Motion to Dismiss, SCE&G argued the ORS pleadings concerning ¶ 17 were deficient. Further, SCE&G attached Appendix C claiming it had not failed to disclose relevant information.

ARGUMENT

Speaker Lucas maintains SCE&G has an obligation to disclose all relevant information concerning the construction of the V.C. Summer nuclear units and any failure to fully disclose relevant information, potentially could have adversely affected the revised rates proceedings. SCE&G does not directly address the concerns raised in the Bechtel Report. The Bechtel Report concludes there are a number “of significant issues facing the project.” The issues range from problems with the construction team, the procurement of supplies and materials, to schedules that are not reflective of actual project circumstances. The Report made observations and recommendations in the functional areas reviewed and then prioritized the recommendations at three levels. Numerous recommendations are made at the highest Priority level. Also, the Report contains a section styled Conclusions. One such conclusion states the “while the Consortium’s engineering, procurement, and construction plans are integrated, the plans and schedules are not

1 In February, 2016, the Bechtel Power Corporation produced an Assessment Report of the V.C. Summer nuclear units. The Report raised many substantive issues with the status of the construction of the two nuclear units. After the Report was disclosed, Santee Cooper’s General Counsel provided a copy of the Bechtel Report to Governor Henry McMaster on September 3, 2017. Shortly thereafter, the Charleston newspaper, Post and Courier, provided a link to the complete Report on its website.
reflective of actual project circumstances.” It goes further by concluding “there is a lack of shared, visions, and goals and accountability between the Owners and the Consortium.”

Why is the Bechtel Report relevant? A very thorough assessment was conducted to assist SCE&G in providing meaningful options to address the numerous issues related to the construction of the nuclear plants. Upon information and belief, SCE&G did not disclose these significant issues raised in the Report. Rather, in its Motion to Dismiss, SCEG makes generalized arguments about the issues in the Report. Appendix C highlights these general references, either in testimony by SCE&G representatives or in letters from ORS to SCE&G. But nowhere does SCE&G state that problems have been identified and that SCE&G must take major action to remediate the problems. This glaring omission gives credence to the ORS allegation of failing to disclose certain information.

One specific example of the broad reference is highlighted in testimony of Kevin B. Marsh on the topic of project schedule. On p. 27 of Appendix C, Mr. Marsh testifies on October 4, 2016 about the problems with the schedule. Marsh states:

“Now, their schedule moves—and if you’re looking at a live schedule, they may be ahead a month, maybe behind a couple of months, and that’s normal with a project of this size and they’re making adjustments to account for the changes as we go through time. It’s just not a firm date that never moves when you go through the construction process. They believe they can attract the resources to do that, and I will continue to ask them that question every time we meet.”

Clearly, this testimony, some eight months after the Bechtel Report is issued, doesn’t alert the Commission (or the public) of the significant schedule problems identified throughout the Report.

SCE&G failed to sound the alarm to all the problems with the construction of the units. It testified generally about these issues but stopped short of arguing changes had to be made, if the project had any chance of being completed.
CONCLUSION

For the reasons described above, Speaker Lucas respectfully requests the Commission approve the ORS Request and deny SCE&G’s Motion to Dismiss.

Respectfully submitted,

/s/ Robert E. Tyson, Jr.
Robert E. Tyson, Jr.
Sowell Gray Robinson Stepp & LaFitte, LLC
Post Office Box 11449
Columbia, South Carolina 29211

November 21, 2017
BEFORE

THE PUBLIC SERVICE COMMISSION

OF SOUTH CAROLINA

In Re: ) Docket No. 2017-305-E

Request of the South Carolina Office of )
Regulatory Staff for Rate Relief to )
SCE&G Rates Pursuant to )

This is to certify that I, Robert E. Tyson, Jr., an Attorney with the law firm of Sowell,
Gray, Robinson, Stepp & Laffitte, LLC, have this day, November 21, 2017, caused to be served
upon the person(s) named below the Response in Opposition to SCE&G Motion to Dismiss
and in Support of Office of Regulatory Staff Position in the foregoing matter by electronic
mail to the email addresses addressed as follows:

Belton T. Zeigler, Esquire
Womble Carlyle Sandridge & Rice, LLP
1727 Hampton Street
Columbia, SC 29201
Belton.zeigler@wcsr.com

Mitchell Willoughby, Esquire
Willoughby & Hoefer, P.A.
Post Office Box 8416
Columbia, SC 29202
mwilloughby@willoughbyhoefer.com

K. Chad Burgess, Esquire
Matthew W. Gissendanner, Esquire
South Carolina Electric & Gas Company
220 Operation Way – MC C222
Cayce, SC 29033
Chad.burgess@scana.com
Matthew.gissendanner@scana.com

J. Emory Smith, Jr., Esquire
Robert D. Cook, Esquire
Office of SC Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
esmith@scag.gov
bcook@scag.gov

Jeffrey M. Nelson, Esquire
Shannon Bowyer Hudson, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201
jnelson@regstaff.sc.gov
shudson@regstaff.sc.gov

Robert Guild
314 Pall Mall
Columbia, South Carolina 29201
bguild@mindspring.com

J. Blanding Holman, IV, Esquire
Elizabeth Jones, Esquire
Southern Environmental Law Center
463 King Street, Suite B
Charleston, South Carolina 29403
bholman@selcsc.org
ejones@selcsc.org

Christopher S. McDonald
The Tiencken Law Firm, LLC
234 Seven Farms Drive, Suite 114
Daniel Island, South Carolina 29492
cmcdonald@tienckenconway.com
Mitchell Willoughby, Esquire
Willoughby & Hoefer, P.A.
930 Richland Street
Post Office Box 8416
Columbia, South Carolina 29201
mwilloughby@willoughbyhoefer.com

Alexander G. Shissias, Esquire
The Shissias Law Firm, LLC
1727 Hampton Street
Columbia, South Carolina 29201
alex@shissiaslawfirm.com

Dino Teppara, Esquire
104 Egret Court
Lexington, South Carolina 29072
Dino.Teppara@gmail.com

John Coffman, Esquire
871 Tuxedo Blvd.
St. Louis, MO 63119
john@johncoffman.net

Michael Couick, Esquire
The Electric Cooperatives of SC, Inc.
808 Knox Abbot Drive
Cayce, South Carolina 29033
Mike.couick@ecsc.org

Stephen Suggs, Esquire
SC Appleseed Legal Justice Center
1518 Washington Street
Columbia, South Carolina 29201
ssuggs@scjustice.org

Damon E. Xenopoulos, Esquire
Stone Mattheis Xenopoulos & Brew, PC
1025 Thomas Jefferson St. NW
Eight Floor, West Tower
Washington, DC 20007
DEX@smxblaw.com

Derrick Price Williamson, Esquire
Stephanie U. Eaton, Esquire
Spilman Thomas & Battle, PLLC
1100 Bent Creek Blvd., Suite 101
Mechanicsburg, PA 17050
dwilliamson@spilmanlaw.com
sroberts@spilmanlaw.com

Frank Knapp, Jr.
118 East Selwood Lane
Columbia, South Carolina 29212
fknapp@knappagency.com

Lynn Teague
3728 Wilmot Avenue
Columbia, South Carolina 29205
TeagueLynn@gmail.com

Scott Elliott, Esquire
Elliott & Elliott, P.A.
1508 Lady Street
Columbia, South Carolina 29201
sellott@elliottlaw.us

s/ Robert E. Tyson, Jr.________