K. Chad Burgess
Director & Deputy General Counsel

chad.burgess@scana.com

January 22, 2018

VIA ELECTRONIC FILING

The Honorable Jocelyn Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, SC 29210

RE: Friends of the Earth and Sierra Club, v. South Carolina Electric & Gas Company; Docket No. 2017-207-E; and

Request of the Office of Regulatory Staff for Rate Relief to South Carolina Electric & Gas Company's Rates Pursuant to S.C. Code Ann. § 58-27-920; Docket No. 2017-305-E

Dear Ms. Boyd:

On January 19, 2018, the South Carolina Office of Regulatory Staff ("ORS") filed a document with the Public Service Commission of South Carolina ("Commission") styled as "ORS Examination of South Carolina Electric & Gas Revenue."[1] ORS filed this document in response to one of the requests made by the Public Service Commission of South Carolina ("Commission") in Order No. 2017-769 asking ORS to evaluate the assertions made by South Carolina Electric & Gas

[1] As an initial matter, it is noteworthy that no affidavit, verification, or other sworn statement is attached to ORS's examination or to the three memoranda prepared by Julio E. Mendoza, Jr., Esquire on behalf of ORS. In sum, ORS's filing and Mr. Mendoza's unsworn memoranda are simply legal arguments and cannot be received or considered as evidence proving any fact or controverted issue. *See* 10 S.C. Code Ann. Regs. 103-822 ("A verification under oath shall be required if facts are alleged to be true within the knowledge of the person filing the pleading"); Rule 43(e), SCRCP ("When a motion is based on facts not appearing of record the court may hear the matter on affidavits presented by the respective parties ...."); Rule 603, SCRE ("Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so.")

(Continued . . .)

ELECTRONICALLY FILED - 2018 January 22 7:22 PM - SCPSC - Docket # 2017-305-E - Page 1 of 11

Company ("SCE&G" or "Company") that if the Commission granted the relief requested by ORS in Docket No. 2017-305-E, then a cascading financial effect would force the Company into bankruptcy. ORS's examination concludes, without evidentiary support, that granting its request would not likely force SCE&G into bankruptcy, but it does, however, result in a 35% likelihood that SCE&G would file bankruptcy. The Commission should not rely upon ORS's unsupported legal argument that the suspension of revised rates collections is unlikely to force SCE&G into bankruptcy because ORS's opinion is severely flawed due to its fundamental misunderstanding that "[a] decision on an impairment is a management decision of SCANA and SCE&G." ORS's statement is wrong and is largely the basis upon which its opinion rests.

Enclosed for filing in the above-referenced dockets is the affidavit of Iris N. Griffin, Senior Vice President and Chief Financial Officer and Treasurer of SCANA and SCE&G, who explains that Generally Accepted Accounting Principles ("GAAP") do not allow Company management the discretion to cherry-pick which assets should or shouldn't be written off. To the contrary, it is GAAP that determines whether or which assets should or should not be written off, not the Company's management. **If the Commission grants the request of ORS, then SCE&G <u>will be required</u> to write off its new nuclear investment. ORS misunderstands this basic accounting requirement.**

In addition to requesting that ORS evaluate SCE&G's claim of a potential bankruptcy filing, the Commission also requested that ORS conduct an inspection and audit of SCE&G. More specifically, the Commission stated in Order No. 2017-769 as follows:

> **<u>Given the magnitude of this case, and its impact on the State of South Carolina and its citizens,</u> I move that the Commission exercise its authority pursuant to Code Sections 58-3-200 and request the Office of Regulatory Staff, pursuant to Code Section 58-4-50(A)(2), to carry out a thorough inspection, audit, and examination of SCE&G's revenue requirements to assist this Commission in determining whether the Company's present schedule of rates is fair and reasonable.**

[Emphasis added].

ORS obviously does not share the Commission's characterization of this case and has not complied with the Commission's request. Rather than honor the Commission's request or seek additional time within which to complete the requested scope of work, ORS simply states that "[a] full audit would take upwards of ninety (90) days." Moreover, it does not appear that ORS intends to comply with the Commission's request because ORS states in its examination "ORS respectfully submits the

(Continued . . .)

ELECTRONICALLY FILED - 2018 January 22 7:22 PM - SCPSC - Docket # 2017-305-E - Page 2 of 11

Commission should take action based upon the facts before it and its analysis of the law in Dockets No. 2017-305-E and No. 2017-207-E."[2]

ORS's action is filed pursuant to S.C. Code Ann. § 58-27-920 (2015) which states,

> The commission may, after a preliminary investigation by the Office of Regulatory Staff and upon such evidence as the commission deems sufficient, order an electrical utility to put into effect a schedule of rates as shall be deemed fair and reasonable . . . .

In Order No. 2017-769, the Commission ruled that ORS conducted a "preliminary investigation" as required by Code Section 58-27-920. The Commission then asked ORS "to carry out a thorough inspection, audit, and examination of SCE&G's revenue requirements to assist this Commission in determining whether the Company's present schedule of rates is fair and reasonable." ORS has declined to do so and stated that the Commission should rule based upon the evidence before it. There is no evidence whatsoever before the Commission demonstrating that the schedule of rates that ORS seeks to have the Commission implement is "fair and reasonable." The only evidence before the Commission is evidence submitted by SCE&G which plainly and sufficiently demonstrates that the rate schedules ORS seeks to have the Commission put into effect are neither fair nor reasonable. For these reasons, SCE&G respectfully requests that the Commission immediately enter judgment in the Company's favor.

Alternatively, the Commission should require ORS to honor the Commission's order and "carry out a thorough inspection, audit, and examination of SCE&G's revenue requirements to assist this Commission in determining whether the Company's present schedule of rates is fair and reasonable." To that end, SCE&G respectfully requests that the Commission, prior to taking any further action in these

---

[2] ORS's failure to honor the Commission's request is consistent with its prior statements at oral argument on December 12, 2017, when counsel for ORS stated, "[w]e respectfully submit that you have evidence, sufficient evidence, before you to suspend the revised rates . . . ." Transcript p.114, lines 5-7. The "evidence" to which counsel was citing consists solely of ORS's request, and contrary to any assertion otherwise, pleadings are not evidence. It is clear that ORS has no desire for an evidentiary hearing on this matter but instead urges this Commission to rule in ORS's favor without any evidence to support such a ruling. In a nation established under the rule of law, the law commands the Commission to reject ORS's request because it has produced no evidence demonstrating that the schedule of rates that ORS seeks to put into effect is fair and reasonable as required by S.C. Code Ann. § 58-27-920.

(Continued . . .)

ELECTRONICALLY FILED - 2018 January 22 7:22 PM - SCPSC - Docket # 2017-305-E - Page 3 of 11

dockets, instruct ORS to comply with Commission Order No. 2017-769 by conducting a full audit to assist the Commission in determining whether the Company's present schedule of rates is fair and reasonable.

Notwithstanding the foregoing, SCE&G specifically reserves its rights to supplement the record with additional affidavits as the Company deems appropriate and necessary in the above-referenced dockets.

If you have any questions, please advise.

Very truly yours,

K. Chad Burgess

KCB/kms
Enclosure

cc: Dawn Hipp
Jeffrey M. Nelson, Esquire
Alexander G. Shissias, Esquire
Christopher S. McDonald, Esquire
Damon E. Xenopoulos, Esquire
Derrick Price Williams, Esquire
Dino Teppara, Esquire
Elizabeth Jones, Esquire
Frank Knapp, Jr.
Frank R. Ellerbe III, Esquire
J. Blanding Holman IV, Esquire
Christopher R. Koon, Esquire
J. Emory Smith, Jr., Esquire
John B. Coffman, Esquire
John H. Tiencken, Jr., Esquire
Lara B. Brandfass, Esquire
Robert D. Cook, Esquire
Robert E. Tyson, Jr. Esquire
Robert Guild, Esquire
Scott Elliott, Esquire
Shannon Bowyer Hudson, Esquire
Stephanie U. Eaton, Esquire
Stephen Suggs, Esquire
Timothy F. Rogers, Esquire
The Honorable Alan Wilson
W. Andrew Gowder, Jr.
Michael T. Rose, Esquire
James R. Davis, Esquire
Richard L. Whitt, Esquire
Michael N. Couick, Esquire
Lynn Teague

(all via electronic mail and U.S. First Class Mail w/enclosure)

ELECTRONICALLY FILED - 2018 January 22 7:22 PM - SCPSC - Docket # 2017-305-E - Page 4 of 11

ELECTRONICALLY FILED - 2018 January 22 7:22 PM - SCPSC - Docket # 2017-305-E - Page 5 of 11

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2017-305-E

IN 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	)))))	**AFFIDAVIT OF IRIS N. GRIFFIN**

Personally appeared before me, the undersigned, Iris N. Griffin, who being duly sworn states as follows:

1. I am Iris N. Griffin, Senior Vice President and Chief Financial Officer and Treasurer of SCANA Corporation and South Carolina Electric & Gas Company ("SCE&G" or collectively the "Company"). I am a Certified Public Accountant (CPA) licensed in South Carolina and have a Master of Accountancy degree from the University of South Carolina.
2. In this proceeding, ORS asks the Commission to disallow approximately $413 million[1] in revised rates recovery that the Commission authorized in nine final and unappealable orders issued beginning with Order No. 2009-104(A) (the "ORS Request"). This $413 million provides SCE&G's only return on its investment in the new nuclear development project. In total, SCE&G's investment in that project equals approximately $4.7 billion[2].

[1] This amount is net of the recovery allowed on certain transmission investment which has not been abandoned but will be placed into service.
[2] This amount is net of certain transmission investment which has not been abandoned but will be placed into service. It is gross of any tax benefits associated with the abandonment.

3. On January 19, 2018, the South Carolina Office of Regulatory Staff ("ORS") filed a document entitled "ORS Examination of South Carolina Electric & Gas Revenue" (the "ORS Report").
4. This document is unsigned.
5. This document was not verified by anyone licensed to practice public accounting in South Carolina or any other state or verified by anyone who could be considered an expert in accounting matters.
6. I have reviewed this report and offer the following response based on my fourteen years of experience in utility accounting and management.
7. The accounting conclusions contained in the ORS Report are wrong and misleading.
8. Specifically, ORS is wrong in stating that if the Commission grants the suspension of rate recovery that ORS requests in this docket, it would be possible or likely that SCE&G could avoid a write down of its $4.7 billion investment in the new nuclear project.
9. Recording such a write down would not be at SCE&G's management's discretion as ORS suggests. Doing so would be mandatory under Generally Accepted Accounting Principles ("GAAP") because there would be no current stream of revenue to support the investment nor (appeal rights aside) any objective basis on which to conclude that the Commission is likely to authorize such a stream of revenue in the future.
10. **If the Commission grants the ORS Request, an impairment would be triggered under GAAP and an aggregate write down of approximately $4.7 billion would be required. As stated in the affidavits of Ms. Lapson and Mr. Addison which are on file, the resulting write down would set in motion a cascade of events that would be extremely detrimental to the financial health of the Company and could lead to bankruptcy.**

ELECTRONICALLY FILED - 2018 January 22 7:22 PM - SCPSC - Docket # 2017-305-E - Page 6 of 11

11. Under the accounting and reporting rules adopted by this Commission, as well as the rules of the United States Securities and Exchange Commission ("SEC") and the Federal Energy Regulatory Commission, SCANA and SCE&G are required to comply with GAAP.

12. Part of GAAP is Accounting Standards Codification (ASC) Section 980-360, issued by the Financial Accounting Standards Board, which defines GAAP requirements where a regulated utility abandons a plant before completion.

13. ASC 980-360 requires the utility to recognize an impairment unless the regulatorily-approved revenue streams supporting the investment in the abandoned plant are sufficient to allow the utility to recover ***the value of*** the investment, and to provide ***a return on*** that investment.

14. Where the regulator has not yet acted definitively, the accounting analysis focuses on whether the regulator is ***likely*** to authorize sufficient revenue streams to meet the requirements of ASC 980-360 when the issue is raised in a future proceeding.

15. In this proceeding, ORS asks the Commission to deny SCE&G any return whatsoever on $4.7 billion of new nuclear project investment.

16. If the ORS Request is granted, there will be no currently authorized revenue stream to support a recovery on or of this $4.7 billion investment. Furthermore, appeal rights aside, there will not be any reasonable or objective basis upon which to conclude for accounting purposes that such a revenue stream is likely to be granted in the future. For that reason, an immediate write off of the entire $4.7 billion investment would be required.

17. ORS is wrong when it asserts that a write off of some or all of the $4.7 billion is not likely if the Commission grants the ORS Request.

ELECTRONICALLY FILED - 2018 January 22 7:22 PM - SCPSC - Docket # 2017-305-E - Page 7 of 11

18. ORS further asserts: "A decision on an impairment is a management decision of SCANA and SCE&G." (ORS Report at p. 5).

19. This assertion is untrue and misleading.

20. In matters arising under ASC 980-360, SCANA's accountants make the initial judgment as to whether or not the regulator has authorized sufficient revenue streams to support the abandoned plant investment or is likely to do so in the future.

21. The accountants' judgment is reviewed by senior leadership, who each quarter must certify to the SEC under oath the accuracy of SCE&G's and SCANA's financial statements and compliance with GAAP.

22. Senior leadership's assessment and judgment of the matter must be accepted by the Audit Committee of the Board of Directors and further affirmed by SCANA's independent registered public accounting firm. That firm audits and verifies that SCE&G's and SCANA's financial statements are appropriately presented under GAAP.

23. **If the requirements for recognizing an impairment under ASC 980-360 are met, none of these parties have any discretion to ignore that fact.**

24. **If the ORS Request were to be granted, apart from consideration of appeal rights, it is difficult to imagine any circumstance in which SCANA's accountants or senior leadership could conclude that the $4.7 billion investment would not need to be fully written off. Doing so would require objective facts or regulatory pronouncements establishing that it was likely that sufficient revenue streams would be authorized in future proceedings. Under any objective analysis, it is difficult to envision how this could occur in the face of a decision by the Commission to deny on-going collection of revenues to support the investment in the current proceeding.**

ELECTRONICALLY FILED - 2018 January 22 7:22 PM - SCPSC - Docket # 2017-305-E - Page 8 of 11

25. This result is likely to be the same whether or not the initial order in this docket is suspended as S.C. Code Ann. § 58-27-930 requires if SCE&G appeals the order to a hearing. Under that statute, the Commission could issue an order disallowing revised rates recovery which would be suspended if SCE&G requested a hearing. But statutory suspension of the order may not, in itself, give SCE&G's accountants or senior leadership a reasonable basis to assume that the Commission will change its mind after hearing. Under GAAP accounting, impairment is likely to be recognized based on the probability that the Commission will proceed consistent with the positions reflected in the initial order.

26. In its report, ORS states:

> Whether or not SCE&G will be allowed future cash flows on the CWIP [new nuclear investment] is not before the Commission in this Docket. Future cash flows related to the CWIP are uncertain and unknown, but no decision has been made to deny them. Accordingly, whether an impairment will occur or its value is unknown.

ORS Report at p. 5.

27. This statement misrepresents required accounting under ASC 980-360.

28. Recognizing an impairment is mandatory unless there exists an objective basis on which to conclude that the Commission is ***likely*** to authorize a sufficient revenue stream in a future proceeding. Uncertainties and unknowns make it more difficult to make a favorable determination in that regard, not less.

29. ORS asserts that a denial of ***a return on*** the investment through revised rates would not require an impairment of the underlying investment, which ORS refers to as "CWIP." (ORS Report at p. 6). This is simply not true and represents a fundamental misunderstanding of utility accounting.

ELECTRONICALLY FILED - 2018 January 22 7:22 PM - SCPSC - Docket # 2017-305-E - Page 9 of 11

30. Recording an impairment can be avoided only if the revenue stream will support both ***a recovery off*** the investment and ***a reasonable return on*** the investment. To avoid impairment, ASC 980-360 requires a revenue stream sufficient to support both.

31. If revised rates are disallowed, there will be no return on the $4.7 billion investment and the value of underlying "CWIP" will be directly impaired under ASC 980-360.

32. Furthermore, absent unlikely circumstances, if the Commission were to accept ORS's Request for an immediate rate reduction in this proceeding, there would be no basis on which to conclude that ***a return off*** the investment was likely in a future proceeding.

33. ORS concluded that the likelihood of a SCE&G bankruptcy was 35% without a $4.7 billion write down. However, it is nearly certain that such a write down will be required if ORS's Request is granted. Therefore, the ORS conclusion is based on inaccurate assumptions.

34. As indicated in prior affidavits filed in this proceeding by Mr. Addison, Ms. Lapson, and Mr. Hewett, a write down of assets of the magnitude discussed here could cripple SCE&G's and SCANA's balance sheet, lead to debt covenants being violated, result in short term notes becoming immediately due, cause the Company's credit ratings to fall to junk status, damage SCE&G's trade credit, and set in motion a cascading series of events that could be financially detrimental to the Company.

35. Granting the relief requested by the ORS would also result in the failure of an express condition to the Agreement and Plan of Merger with Dominion Energy, Inc., and the loss of customer benefits offered through that transaction.

36. As outlined above, the ORS Report is based on a pervasive misapplication of the controlling GAAP requirements related to the impairment of utility assets. The

ELECTRONICALLY FILED - 2018 January 22 7:22 PM - SCPSC - Docket # 2017-305-E - Page 10 of 11

accounting conclusions reached in the ORS Report are demonstrably wrong. Therefore, the opinions stated in the ORS Report regarding impairments and write-offs are not entitled to any weight or credibility in this matter.

FURTHER AFFIANT SAITH NOT.

Iris N. Griffin

SWORN to BEFORE me the 22nd day of January, 2018.

Notary Public for South Carolina
My Commission Expires: 01/20/26

KAREN MEEK SCRUGGS
NOTARY
PUBLIC
SOUTH CAROLINA

ELECTRONICALLY FILED - 2018 January 22 7:22 PM - SCPSC - Docket # 2017-305-E - Page 11 of 11