SOUTH CAROLINA PUBLIC SERVICE COMMISSION

HEARING OFFICER DIRECTIVE

DOCKET NOS. 2017-370-E, 2017-207-E, 2017-305-E **ORDER NO. 2018-112-H**

AUGUST 24, 2018

David Butler
Hearing Officer

DOCKET DESCRIPTION:

Docket No. 2017-370-E – Joint Application and Petition of South Carolina Electric & Gas Company and Dominion Energy, Incorporated for Review and Approval of a Proposed Business Combination between SCANA Corporation and Dominion Energy, Incorporated, as May Be Required, and for a Prudency Determination Regarding the Abandonment of the V.C. Summer Units 2 & 3 Project and Associated Customer Benefits and Cost Recovery Plans

Docket No. 2017-207-E – Friends of the Earth and Sierra Club, Complainant/Petitioner v. South Carolina Electric & Gas Company, Defendant/Respondent

Docket No. 2017-305-E – 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

MATTER UNDER CONSIDERATION:

Motion to Bifurcate or, In the Alternative, To Sequence the Hearing

HEARING OFFICER ACTION:
The South Carolina Coastal Conservation League ("CCL") and Southern Alliance for Clean Energy ("SACE") have moved that the Commission bifurcate the above-captioned consolidated Dockets, or in the alternative, to sequence the hearing, pursuant to 10 S.C. Code Ann. Regs. 103-829. CCL and SACE assert, in summary, that, rather than having a combined hearing, it would be a better use of judicial resources for the Commission to receive testimony, hold a hearing, and issue an order regarding the prudency of abandonment before receiving testimony, holding a hearing, and issuing an order regarding the proposed business combination of SCANA Corporation and Dominion Energy, Inc. (together, the "Companies"), and the associated customer benefits plan or alternative proposals. In the alternative, CCL and SACE move the Commission to

sequence the hearing in the above-captioned consolidated dockets so that the issues surrounding the V.C. Summer abandonment are addressed first, with each party able to present its witness and conduct cross-examination and redirect on these discrete issues, and the issues surrounding the proposed merger are addressed second. CCL and SACE further assert, *inter alia*, that because Ratification No. 285 requires only that the Commission not hold a hearing on the merits before November 1, 2018 for requests made pursuant to the Base Load Review Act ("BLRA"), with a final order due no later than December 21, 2018, the resolution permits the Commission to bifurcate the consolidated Dockets into two distinct dockets and to delay its decision on what CCCL and SACE consider the non-Base Load Review Act issues, i.e. the requests for approval of the merger and benefits plans. CCCL and SACE, both in their Motion, and in reply to documents filed opposing the Motion, assert that bifurcation of the proceeding will allow for a more orderly, thoughtful, and deliberate process in resolving the important questions surrounding the V.C. Summer abandonment.

Several other parties support the CCCL and SACE motion, namely Friends of the Earth/Sierra Club, Lynn Teague, Frank Knapp, and William T. Dowdey. A Response in Opposition to the Motion was filed by Dominion Energy, Inc. ("Dominion") and South Carolina Electric and Gas Company ("SCE&G") (together, the "Joint Applicants").

The Joint Applicants raise a number of issues with bifurcation of the Dockets. First, Dominion and SCE&G take an opposing view as to the question of what constitutes "requests made pursuant to the Base Load Review Act" under Ratification No. 285. Dominion and SCE&G assert that both the abandonment and the merger questions qualify under this designation, and therefore, the Commission is obligated to make decisions on both issues by December 21, 2018.

In addition, the Joint Applicants assert that under either bifurcation or sequencing, witnesses will have to be called to the stand twice, cross-examined twice, questioned by the Commission twice, and redirected twice. The scheduling of the expert witnesses would become complicated. Further, the Joint Applicants note that the Hearing Officer and the Commission will be called on to rule on objections concerning which questions relate to which side of the line of bifurcation. According to the Joint Applicants, making this determination would be extremely difficult, since the Joint Applicants' primary proposal for resolving the V.C. Summer issues is linked to underlying regulatory and rate making issues surrounding abandonment of the Project. Bifurcation or sequencing could cause confusion and disruption in the hearing process, according to the Joint Applicants.

Dominion and SCE&G further point out that more than six months ago, after having received motions, comments, and proposals from multiple parties, and after the solicitation

of comments from the parties by the Hearing Officer, the full Commission issued Order No. 2018-80. In that Order, the Commission ordered that the three nuclear Dockets be consolidated because of the commonality of issues between the Dockets, and ordered the adoption of the current procedural schedule. The Joint Applicants also note that, as stated in that Order, multiple parties were supportive of consolidation at that time, and in fact CCL and SACE were supportive of consolidation of two of the Dockets. No mention was made of consolidating the three Dockets and then unconsolidating them as to their core issues. Additionally, the Joint Applicants further state that none of the parties that support the motion to bifurcate objected to the procedural schedule adopted pursuant to Order No. 2018-80. In the interim, Dominion and SCE&G assert that, in reliance on the present schedule, the Joint Applicants have prepared and pre-filed direct testimony of thirteen (13) witnesses. In general, Dominion and SCE&G assert that the present motion is untimely.

Although the Joint Applicants assert other arguments, all of which are opposed by CCCL and SACE in their Reply, the arguments discussed above are sufficient to convince this Hearing Officer that the Motion for Bifurcation or Sequencing should be denied. Clearly, the benefits plans under the merger include proposals for rate mitigation for, *inter alia*, abandonment costs incurred by SCE&G. Therefore, the concepts of abandonment and merger are related and clearly constitute requests made pursuant to the Base Load Review Act. Accordingly, decisions on both issues must be made by December 21, 2018, and no delay is appropriate for the merger decision. The schedule clearly limits the time frame in which the Commission has to decide these and other issues to the point where a bifurcation or sequencing and all the steps that go with these would not be possible to accomplish in an efficient manner. The timeframe for the merits hearing set by the General Assembly would not provide sufficient time to hold what essentially would be two proceedings, whether the hearing was bifurcated or sequenced.

Further, the procedure proposed by CCL and SACE would be unwieldy, causing confusion and disruption in the hearing process. Discerning what testimony should be presented in what proceeding, or what part of a proceeding would be very difficult, to the point where much of the hearing time could conceivably be occupied with procedural objections.

In addition, as pointed out by the Joint Applicants, no objections were raised at the time of consolidation of the Dockets and establishment of the procedural schedule, and Dominion and SCE&G pre-filed testimony in reliance on that schedule.

Based on the reasoning stated above, the Motion for Bifurcation or Sequencing is denied. This ends the Hearing Officer's Directive.