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June 7, 2016

Ms. Coretta D. Bedsole
Associate State Director – Advocacy
AARP, South Carolina
1201 Main Street, #1720
Columbia, SC 29201

Dear Coretta,

I am writing in response to your letter of March 23, 2016 in which you raised several questions regarding the Base Load Review Act ("BLRA") and changes to the construction cost of V.C. Summer Units 2 & 3 ("Units") in which South Carolina Electric & Gas Company ("SCE&G") is majority owner.

The Office of Regulatory Staff ("ORS") performs ongoing monitoring of the Units and has issued two data requests to SCE&G that asks several questions regarding the proposed changes to the Engineering, Procurement and Construction Agreement ("EPC Contract"). The questions and responses are posted on ORS's website.

To address your questions specifically:

1. *Perhaps the most important question we asked in our letter of November 4, 2015 was about Risk Shifting. Is there less incentive for a utility like SCE&G, operating under the BLRA, to experience more cost overruns on a power plant project, since the momentary risk is being borne by consumers, rather than the traditional method that expects the utility to bear that risk? This question was not clearly addressed in ORS' response to our November 4 letter, and the answer is not contained in your office's commissioned analysis.*

   Under the BLRA, the burden of proof is on the party challenging the costs to demonstrate the changes in the schedules or estimates ("cost overruns") are the result of imprudence on the part of the utility. Traditionally, the burden of proof would have been on the utility to demonstrate that the expenditures ("cost overruns") were prudent if a party had raised the issue. One can reach their own conclusions.

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2. *ORS has acknowledged that the BLRA law prevents Refunds or Rebates to the consumer, if a BLRA project goes bad. But are there any actions that ORS could take under the law to ensure that cost overruns are not borne by captive consumers? Or does the BLRA prevent ORS from taking action to protect consumers from cost overruns?*

So long as the plant is constructed or costs are incurred in accordance with the approved Commission orders, the utility must be allowed to recover its capital costs related to the plant.

If costs are incurred that are not in compliance with approved Commission orders or where ORS, or any party, can demonstrate the costs are a result of imprudence on the part of the utility, the PSC can take action to ensure that those costs are not borne by captive customers.

S.C. Code Ann. Section 58-33-270(E) applies to requests from SCE&G to modify its construction budget. This Section is included in the response to #4 below. Of note, it states the Commission shall grant the request for a modification to the construction budget if the changes are not the result of imprudence on the part of the utility. This is a different standard than requiring the utility to prove it acted prudently. In the prior modification requests, ORS was unable to locate a preponderance of evidence that SCE&G acted imprudently given the information SCE&G had when decisions were made. As indicated below, ORS is examining SCE&G's current modification request.

3. *Is there any other provision(s) in the current law that would allow SCE&G to provide voluntary rebates or future rate increase off-sets to consumers?*

South Carolina law does not prohibit SCE&G from implementing a rate reduction with Commission approval. In the last proceeding for cost and schedule modifications, Docket No. 2015-103-E, a settlement was reached such that SCE&G's return on equity was reduced from 11 percent to 10.5 percent.

4. *During ORS's last appearance before the PSC, an ORS staff attorney stated that all of the costs of SCEG's projects to date were "prudent". Has the opinion of ORS changed since October 27, 2015 when, according to a story in twst.com, SCANA entered into a settlement that "released" Chicago Bridge and Iron from the "consortium" and made changes to its construction team?*

ORS's last appearance before the PSC related to the Units was in Docket No. 2015-103-E. During that appearance, ORS counsel stated that ORS found no evidence of "imprudence" on the part of the utility. ORS did not affirmatively state that SCE&G was prudent, a different legal standard. S.C. Code Ann. Section 58-33-270(E) provides:

(E) As circumstances warrant, the utility may petition the commission, with notice to the Office of Regulatory Staff, for an order modifying any of the schedules, estimates, findings, class allocation factors, rate designs, or conditions that form part of any base load review order issued under this section. The commission shall grant the relief requested if, after a hearing, the commission finds:

(1) as to the changes in the schedules, estimates, findings, or conditions, that the evidence of record justifies a finding that the changes are not the result of imprudence on the part of the utility; and

(2) as to the changes in the class allocation factors or rate designs, that the evidence of record indicates the proposed class allocation factors or rate designs are just and reasonable.

With respect to whether ORS has changed its opinion, ORS has not finalized its decision on the October 27, 2015 amendment ("Amendment") to the EPC Contract. ORS is examining the Amendment. In addition to our regular meetings with SCE&G, we have specifically met with key Westinghouse and Fluor construction staff and have issued information requests to SCE&G related to the Amendment.

5. *Could ORS elaborate on reported changes in SCE&G's new nuclear construction team and explain the new management structure? Could this reported settlement result in electric rate reductions for residential consumers and/or rebates to residential consumers?*

As background, Westinghouse and Shaw Stone and Webster were a consortium, or partners, under the original EPC Contract. Westinghouse is responsible for the design of the units and Shaw Stone and Webster was responsible for construction activities. When the EPC Contract was originally signed, Stone and Webster was a subsidiary of Shaw. Subsequently, Stone and Webster was acquired by Chicago Bridge & Iron ("CB&I") from Shaw, thus CB&I became involved via their ownership of the subsidiary Stone and Webster.

As part of the recent changes associated with the Amendment, CB&I Stone and Webster was acquired by Westinghouse from CB&I. Westinghouse is now responsible for both design and construction services for the Units. Westinghouse has chosen to engage a contracted construction manager for the Units. This contracted construction manager is Fluor, which has an office in Greenville, South Carolina. Fluor has direct responsibility for the craft labor on the construction site, and the craft labor have become Fluor employees. Westinghouse continues to maintain some management and design engineering staff on site as well. News reports have indicated that as part of the acquisition, Westinghouse has released CB&I from previous, current and future liabilities associated with the AP1000 nuclear projects. SCE&G did not have to approve these actions as they were made via acquisition of the subsidiary that held the EPC Contract. As part of the Amendment and upon Westinghouse acquiring Stone and Webster, SCE&G did agree to a mutual release of CB&I from its guaranty obligations associated with the EPC Contract.

We do not believe the settlement in and of itself would result in rate reductions.

6. *Could ORS comment on the most recent Department of Energy EIA residential electric rates data? Can ORS ascertain the extent to which this higher rate has been impacted by cost overruns for the VC Summer project?*

   EIA data for purposes of this response is taken from "Table 5.6.A, Average Price of Electricity to Ultimate Customers by End-Use Sector, January 2016". The EIA calculates that the average residential cost of electricity in South Carolina is 11.72 cents per kWh, below the national average of 12.01 cents per kWh.

   We are unable to determine what portion of the EIA-calculated rate is attributable to SCE&G nuclear cost expenditures since the timing of construction has changed and expenditures have been delayed. In addition, the EIA does not seek input from ORS.

   ORS does, however, calculate the portion of the residential retail rate attributable to the BLRA. This information is available on our website and is updated after each revised rates proceeding. Increases due to the BLRA currently make up $23.17 on a 1,000 kWh monthly residential bill, as calculated using Rate 8. This equates to approximately 16.13% of the bill.

7. *As to the questions that AARP SC raised on November 4 regarding possible alternatives, ORS states that the BLRA law would allow SCE&G to retain all previously approved costs, even if it becomes more economical to abandon a current project for an alternative plan. AARP SC is interested in an analysis that would determine if, even under the law's constraints and despite the costs already sunk into the VC Summer project, consumers might still be better off with a cheaper alternative. With every passing year, as cost overruns continue to grow, this becomes an ever more urgent question. Consumers should not be forced to continue paying good money after bad, if in fact there is a better alternative. Is there an opportunity for an analysis to determine alternatives?*

   ORS is reviewing this issue.

8. *In response to AARP's November 4 letter, ORS stated that it "cannot speculate" on excess power that might exist if the current SCE&G power plants are completed, given the current very low power Demand for electricity. With every year, energy efficiency is reducing the need for new power. This trend seems to argue against building new power plants.*

   For clarification's sake, ORS has not stated that demand for electricity is very low. The need for new electricity generation is driven not only by increases in demand, for instance from new industries and residences, but also by forecasted power plant retirements, environmental requirements and the necessity of maintaining a diversified generation mix.

The generic term "energy efficiency" is often used to incorporate two distinct methods of energy savings – energy efficiency and demand response. Energy efficiency reduces overall kWh used through methods such as more efficient construction, more efficient appliances and weatherization measures. Demand response reduces peak energy usage through methods such as device control, voltage regulation and time-of-use rates.

Nuclear units are base load generation, providing a steady and continuous source of power every day. Thus, base load units cannot be directly replaced with demand response technologies. Energy efficiency measures can indeed reduce base load demand, but these savings rely on consumers choosing to adopt energy efficiency measures. These energy efficiency measures often have an initial cost to the consumer, making them more difficult for lower income consumers and consumers in existing homes to implement. In addition to these factors, nuclear power is a non-carbon emitting source of energy. This distinction is an important consideration in today's environmental regulatory landscape.

I hope our responses provide a greater understanding of the BLRA and its implications. As always, you are welcome to directly contact me.

Sincerely,

C. Dukes Scott