

DEPOSITION OF DUKES SCOTT
November 7, 2018

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STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
)
COUNTY OF HAMPTON) CASE NO. 2017-CP-25-00335

RICHARD LIGHTSEY, LeBRIAN)
CLECKLEY, PHILLIP COOPER,)
et al., on behalf of)
themselves and all others)
situated,)

Plaintiffs,)

v.)

SOUTH CAROLINA ELECTRIC)
& GAS COMPANY, a Wholly)
Owned Subsidiary of SCANA,)
SCANA Corporation, and the)
State of South Carolina,)

Defendants.)

SOUTH CAROLINA OFFICE OF)
REGULATORY STAFF,)

Intervenor.)

VIDEOTAPED DEPOSITION OF DUKES SCOTT
(Taken by Defendants South Carolina Electric & Gas
Company and SCANA Corporation)
November 7, 2018

Reported by: Rebecca L. Arrison
 Court Reporter
 Notary Public

DEPOSITION OF DUKES SCOTT

November 7, 2018

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November 7, 2018

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18
19 Videotaped deposition of DUKES SCOTT, taken by
20 the Defendants, at Haynsworth Sinkler Boyd, P.A.,
21 1201 North Main Street, 22nd Floor, Columbia, South
22 Carolina, on the 7th day of November, 2018, at
23 10:00 a.m., before Rebecca L. Arrison, Notary Public
24 and Court Reporter.

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1 THE VIDEOGRAPHER: We are now on
2 the record. Today's date is November the 7th,
3 2018, the time is 10:02.

4 This is the video deposition of
5 Dukes Scott, taken by counsel for the defendant.
6 The location is Haynsworth Sinkler Boyd,
7 1201 Main Street, 22nd Floor, Columbia, South
8 Carolina.

9 My name is Alan Metts, legal
10 videographer representing CSI Global Depositions
11 Services, Incorporated. The court reporter is
12 Rebecca Arrison, also with CSI Global Deposition
13 Services, Incorporated.

14 This deposition is taken in the
15 matter of Richard Lightsey, et al., Plaintiffs,
16 versus South Carolina Electric & Gas Company, et
17 al., Defendants. Case Number 2017-CP-25-00335 in
18 the Court of Common Pleas, State of South
19 Carolina, County of Hampton.

20 Will counsel now please introduce
21 yourselves for the record.

22 MR. DICKSON: I'm Wells Dickson,
23 Dukes Scott's personal attorney.

24 MR. LIGHTSEY: Wallace Lightsey
25 attorney for the Office of Regulatory Staff.

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1 MS. EDWARDS: Nanette Edwards,
2 attorney for the Office of Regulatory Staff.

3 MS. FICKLING: Jessica Fickling,
4 the Strom Law Firm, on behalf of the plaintiff
5 class.

6 MS. HARRISON: Whitney Harrison
7 from Mcgowan Hood & Felder, for the plaintiff
8 class.

9 MR. SMITH: Rush Smith
10 representing Santee Cooper.

11 MR. RICHARDSON: Terry Richardson
12 for Lightsey.

13 MR. BELL: Kevin Bell on behalf of
14 Central Electric Power Cooperative.

15 MR. SMITH: Emory Smith for the
16 State of South Carolina in the Lightsey Cleckley
17 cases and for the State ex rel. Wilson in the PSC
18 cases.

19 MS. MOODY: Leah Moody, SCANA,
20 SCE&G.

21 MS. BARRETT: Julia Barrett with
22 King & Spalding for SCE&G and SCANA.

23 MR. CHALLY: Jon Chally from King
24 & Spalding representing SCE&G and SCANA.

25 Before we swear in the witness, we

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1 have some people on the phone, two lawyers, and
2 then Gene Soult. I understand Mr. Soult's a
3 witness in this case. Is he assisting in some
4 way in the legal proceedings?

5 MR. LIGHTSEY: He's our person who
6 is participating in the NND, but, yeah, I mean,
7 we consult with him. I mean, that's where it's
8 at.

9 MR. CHALLY: Okay. So is his
10 attendance necessary for the ORS to, I don't
11 know, to complete its defense of the deposition?

12 MR. LIGHTSEY: Not specifically
13 for the deposition but I think it is necessary
14 for the prosecution of the PSC matter.

15 MR. CHALLY: Okay. Okay.
16 Mr. Soult, all I would ask, I am aware of the
17 fact that you also listened in to Carlette
18 Walker's deposition, and that during that
19 deposition, Gary Jones was in your office and
20 listened to portions of it as well.

21 We need to make sure that our
22 record is clear as to who is listening in and the
23 reasons why they're listening in. So if it
24 happens to be that someone else enters into your
25 office or Mr. Jones enters your office, and there

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1 is another person listening into the line, I
2 would appreciate it if you would announce that to
3 us so that we can make sure the record is clear.

4 MR. SOULT: I certainly will. But
5 Mr. Jones was not in my office when I was
6 actually listening to it. We were having lunch,
7 he walked by, and so I wasn't listening to it at
8 the time.

9 MR. CHALLY: Okay. All right.
10 Madame Court Reporter, can you swear the witness,
11 please.

12 - - -
13 DUKES SCOTT,
14 being first duly sworn, testified as follows:

15 - - -
16 EXAMINATION

17 BY MR. CHALLY:

18 **Q. Good morning, Mr. Scott. My name is Jon**
19 **Chally. We met just before your deposition began.**
20 **Can you state your name for the record, please.**

21 A. It's Charles Dukes Scott.

22 **Q. Have you ever given a deposition before?**

23 A. No, sir.

24 **Q. "No, sir," is that what you said?**

25 A. No, sir.

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1 Q. Let me go over some ground rules. We are
2 here to take a written record of everything that
3 happens while we are on the record. So the court
4 reporter is taking down everything that we say, and
5 as you have seen, we also have a video record of the
6 proceedings today.

7 I'm here to ask questions and you're here to
8 answer those questions, and because, in part, the
9 court reporter is taking down everything we say, we
10 need to try to work together a little bit to not talk
11 over each other. So that I will do my best to let
12 you complete your answer before I begin my next
13 question, and I'd appreciate it if you'd do the same
14 thing, do your best to let me complete my question
15 before you begin your answer. Okay?

16 A. Yes, sir.

17 Q. All right. It's also important that you
18 give oral responses to questions, so a nod of the
19 head or uh-huh nor huh-uh don't come across on a
20 transcript very well. Yes or no or audible answers
21 is important. Okay?

22 A. Yes, sir.

23 Q. All right. If at any time throughout the
24 day you need a break, tell me, we'll take a break. I
25 only ask that we not take a break if there is a

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1 question pending. And I'm sure your attorney and the
2 attorneys for the Office of Regulatory Staff are
3 familiar with the South Carolina Rules that limit the
4 circumstances under which you can seek advice or
5 discuss the substance of the deposition with
6 attorneys representing you here today. Okay?

7 A. Yes, sir.

8 Q. All right. So the last instruction, or see
9 if we can reach an agreement on, if at any time you
10 don't understand one of my questions, tell me, and I
11 will do my best to rephrase that question. Okay?

12 A. Yes.

13 Q. But if you answer my question and don't tell
14 me that you failed to understand, can we have an
15 agreement that you fairly understood my question
16 sufficient so that you could form an answer to it; is
17 that okay?

18 A. Yes, sir.

19 MR. CHALLY: Who just joined?

20 MR. GALVIN: Greg Galvin.

21 BY MR. CHALLY:

22 Q. Mr. Scott, are you currently taking any
23 medication that impact your memory?

24 A. I am taking medications. I don't know -- I
25 don't know -- they do seem to, you know, to -- my

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1 wife says that I knew about stuff that I don't
2 remember knowing about but I don't know that that's
3 the reason, but I am taking medications. I did not
4 take them this morning.

5 **Q. What medications are they?**

6 A. I started to bring that list but didn't. I
7 have been to -- I have been taking cholesterol
8 medicine. I am back on blood pressure medicine, I am
9 taking -- and I hate to say this because I kind of
10 beat it to death before, but I am taking a Xanax, I
11 think it's a generic, a substitute to Xanax, but it's
12 the same stuff -- I started to bring that list. I'm
13 taking something, I think it starts with a T, at
14 bedtime to help me sleep. I have got -- I think it's
15 an anti -- I can't remember the names of them but I
16 think it's an anti-anxiety medication. And then
17 there is -- there is another pill that's been
18 prescribed, you know, blood pressure medicine, and
19 then I take a cholesterol medicine. So right now, I
20 think there is six prescriptions.

21 **Q. So I think you said you're taking a --**
22 **beyond the blood pressure and cholesterol medication,**
23 **you said you're talking a sleeping pill; is that**
24 **right?**

25 A. I don't know whether you call it a sleeping

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1 pill but the doctor gave it to me to help me sleep,
2 and I take it at bedtime.

3 **Q. Did you take it yesterday evening?**

4 A. I did.

5 **Q. Did you take one of those pills yesterday**
6 **evening or was it multiple?**

7 A. No, it's one. It's a pretty heavy dosage,
8 but it's one.

9 **Q. And as prescribed, you took it yesterday?**

10 A. As prescribed, yes.

11 **Q. And then you said you were also on a Xanax;**
12 **is that correct?**

13 A. It's a Xanax substitute, but, yes.

14 **Q. Did you take that Xanax yesterday?**

15 A. No, sir.

16 **Q. Did you take that Xanax today?**

17 A. No, sir.

18 **Q. How often are you prescribed to take that**
19 **particular medication?**

20 A. Well, the prescription says -- the
21 prescription says up to three a day as needed, take
22 one a day up to three times a day as needed. I'm
23 trying to limit it to just at night.

24 **Q. Just at night?**

25 A. Yes.

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1 **Q. So when was the last time you took a Xanax?**

2 A. I think that would be -- I didn't take it
3 last night, I think I did take it the night before.

4 **Q. Did you take just one that day before then?**

5 A. Yes, sir.

6 **Q. You also said that you were on an additional**
7 **or another anti-anxiety medication. What was that?**

8 A. I don't know what the name of it is.

9 **Q. How often are you prescribed to take that**
10 **medication?**

11 A. Well, there's one I take every day, once a
12 day. I didn't take this morning. There is -- I
13 think we have talked about the Xanax or the Xanax
14 substitute. There is one pill that I take up to
15 three times a day, but I have tried to stay off of
16 that one a little bit. I haven't taken that in the
17 last, I can't remember the last time.

18 **Q. So is this the anti -- the pill that you**
19 **have not taken for some amount of time that you are**
20 **prescribed to take up to three times a day, is this**
21 **the additional anti-anxiety medication?**

22 A. I think so, sir. You know, the doctor goes
23 over them, but they have got names about, you know,
24 yay long. But there's been -- there's four of them,
25 and then the blood pressure medicine and then the

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1 cholesterol medicine.

2 Q. So I apologize for belaboring the point, but
3 you said there were four. So I have a sleeping pill,
4 a Xanax, an anti-anxiety pill. Is there another pill
5 that you're taking that is not for cholesterol or
6 blood pressure?

7 A. Yes, sir?

8 Q. And what's your understanding of the purpose
9 of that pill?

10 A. Well, there is the one at bedtime, there is
11 one every morning that I take every morning, there is
12 one up to three times a day, and then -- I can't, I
13 can't remember. There is the Xanax substitute, there
14 is a pink pill that's up to three times a day, there
15 is one every day, and then there is one at bedtime;
16 those are the four.

17 Q. And you -- it's your understanding that
18 those that -- putting aside the sleeping pill, the
19 other three pills are of anti-depressant or
20 anti-anxiety form?

21 A. Yes, that's my understanding. Now, I'm a
22 little concerned about swearing to it because, you
23 know, the doctor goes through all that stuff, but --

24 Q. Okay. Is it one physician that has
25 prescribed these medications?

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1 A. Oh, yes, sir.

2 **Q. What's the name of that physician?**

3 A. He is -- I had to switch because Dr. Heit
4 retired. He's with the Three Rivers Medical on
5 Forest Drive. I will have to find it.

6 **Q. That's okay. The practice is Three Rivers**
7 **Medical?**

8 A. Three Rivers on Forest Drive in the -- in
9 that glass-looking building. I don't know whether
10 you're familiar with it.

11 **Q. Okay. Even considering the medications that**
12 **you have been taking periodically, is there anything**
13 **that you're aware of that would prevent you from**
14 **giving true and complete testimony during your**
15 **deposition today?**

16 A. I don't know of anything.

17 **Q. Do you have any concern that this medication**
18 **you're taking is somehow impacting your memory?**

19 A. I don't know the answer to that.

20 **Q. You have said that you indicated your wife**
21 **thought that the medication may be impacting your**
22 **memory?**

23 A. She didn't think it's the medication; I
24 think she might think it's old age.

25 **Q. Fair enough.**

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1 A. But I'm supposed to know things that I don't
2 remember her telling me.

3 **Q. All right. So other than that, do you have**
4 **any reason to believe this medication or other**
5 **circumstances are impacting your ability to recall**
6 **past events?**

7 A. I don't think the medication is.

8 **Q. Okay.**

9 A. But I don't -- you know, I don't know
10 because --

11 **Q. Fair enough. So, Mr. Scott, what is your**
12 **residence address?**

13 A. 6413 Pinefield Road, Columbia, 29206.

14 **Q. How long have you lived at that address?**

15 A. Forty years, it's 40 years in August.

16 **Q. Mr. Scott, you're familiar with some of the**
17 **proceedings that have brought us here today, and**
18 **specifically, are you familiar -- you're familiar,**
19 **are you not, with proceedings pending before the**
20 **Public Service Commission related to the abandonment**
21 **of the V.C. Summer nuclear project?**

22 A. I'm not -- I know there's one going on, but
23 I am not following it.

24 **Q. So you're aware, are you not, that there is,**
25 **even as we speak, a hearing ongoing before the Public**

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1 **Service Commission related to the abandonment of the**
2 **project?**

3 A. I am aware.

4 **Q. Are you aware of the fact that that**
5 **proceeding is being live-streamed over the internet?**

6 A. Yes, sir.

7 **Q. Have you watched any of the proceedings?**

8 A. No, sir.

9 **Q. Have you talked to anyone who has described**
10 **to you the substance of the proceedings?**

11 A. The only people that I have talked to is
12 the -- my attorneys.

13 **Q. Okay. And your attorney, who specifically?**

14 A. Well, it would be Wells and Matthew
15 Richardson and Wallace Lightsey and Nanette.

16 **Q. Have you reviewed any pleadings or filings**
17 **that have been asserted or filed in the Public**
18 **Service Commission?**

19 A. The only filing that I have reviewed was the
20 Interrogatories that SCE&G sent to ORS because some
21 of it related to, you know, things that I would have
22 knowledge. I have not reviewed the responses to it,
23 but I haven't looked at any testimony or -- no, sir.

24 **Q. Did you provide input to the Interrogatory**
25 **Responses?**

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1 A. Yes, sir.

2 **Q. And you provided that input to counsel for**
3 **the Office of Regulatory Staff?**

4 A. Yes, sir.

5 **Q. Have you reviewed any depositions that have**
6 **been taken in the matter?**

7 A. No, sir.

8 **Q. Outside of discussions with lawyers, have**
9 **you had any discussions with ORS staff members**
10 **regarding any of the proceedings?**

11 A. Outside the lawyers?

12 **Q. Yes, sir.**

13 A. No, sir.

14 **Q. Have you had discussions with any members of**
15 **the general --**

16 A. I say no, sir, but to my memory, I don't.
17 You know, everything is subject to memory. I don't
18 remember having a conversation with the staff member
19 about the proceedings. The filing was made January
20 the 12th for this proceeding.

21 Now, I say that -- now, I may have had
22 conversations about our -- not our -- ORS's filing of
23 September the 26. Between then and January the 15th,
24 I have had no discussions about the filing with
25 anybody since -- with staff members since January the

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1 15th and probably earlier than that because I took
2 annual leave about 30 days before January the 15th.

3 **Q. So January the 15th is the date of your**
4 **retirement from the ORS; is that right?**

5 A. Well -- and I don't want to get technical
6 with you but I want to be clear. My retirement from
7 the state actually, if you look at my state
8 retirement record, it's going to show 2010 is when I
9 retired. Go through the tier program, then you can
10 be reappointed. So January 15th is when I officially
11 separated for the last time from ORS.

12 **Q. So from January 15th to today, have you had**
13 **any discussions with any member of the General**
14 **Assembly regarding the proceedings before the Public**
15 **Service Commission?**

16 A. I don't think so.

17 **Q. Okay.**

18 A. Not that I can remember having.

19 **Q. Following January 15 and through today, have**
20 **you had any discussions with any member of the**
21 **General Assembly related to the V.C. Summer Nuclear**
22 **project?**

23 A. I don't remember having one. That doesn't
24 mean I didn't, but I don't remember having one.

25 **Q. Following January 15 until today, have you**

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1 **had any discussions with Mike Couick related to V.C.**
2 **Summer Nuclear project?**

3 A. Yes, sir.

4 **Q. What were those discussions?**

5 A. They weren't -- they weren't involved, but I
6 ran into Mike other places. I don't remember any
7 real substance, but I know V.C. Summer has come up,
8 for example, I think I was out there for another kind
9 of meeting, and he told me about the Interrogatories.

10 **Q. And when you say "Interrogatories," you mean**
11 **Interrogatories that the SCE&G sent?**

12 A. SCE&G sent, right, yeah.

13 **Q. What do you recall him saying about the**
14 **Interrogatories?**

15 A. He said they're concerned about a Bechtel
16 report.

17 **Q. That the Interrogatories concerned the**
18 **Bechtel report?**

19 A. That's what he told me, yes, sir.

20 **Q. What else do you discuss about the --**

21 A. That was about it.

22 **Q. Did you discuss with Mr. Couick in this**
23 **meeting information that either Mr. Couick had or you**
24 **had related to the Bechtel report?**

25 A. What he told me was that -- that he didn't

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1 recall mentioning the Bechtel report to me at all,
2 and I -- my memory is different than that.

3 **Q. Okay. What is your memory?**

4 A. My memory is that in some conversation, it
5 might not necessarily be about the V.C. Summer
6 particularly, but Mike and I worked closely together
7 on a lot of issues, and what I thought he asked me at
8 some point was has my -- has anybody on the staff
9 mentioned to me about a Bechtel report. My response
10 was no.

11 Now, this is -- this is my memory, and I
12 understand I think it's different than Mr. Couick's,
13 but there is a difference in memory, not -- and as I
14 recall, as I recall it, and this is just me recalling
15 it, I can't say this is a fact, it's just as I recall
16 it, I asked Ms. Powell about it, and she said that --
17 she did ask about it, and they told him it was an
18 oral report, is my memory.

19 And then it seems to me that in another
20 gathering with Mike and Ms. Powell, he asked her
21 about it again and her answer was pretty consistent;
22 said that they said it was an oral report and a --
23 what do you call those presentations on the computer?

24 **Q. Power Point?**

25 A. Power Point presentation.

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1 **Q. So your memory is Ms. Allyn Powell informed**
2 **Mike Couick at some point that Bechtel had provided a**
3 **Power Point presentation to the owners; is that**
4 **right?**

5 A. I thought it was -- I thought -- now, this
6 is tough because I'm going by memory, but my memory
7 was that she said that it was a presentation to the
8 board.

9 **Q. To the board of whom or what?**

10 A. SCANA.

11 **Q. Just SCANA?**

12 A. Yeah. I don't know about Santee Cooper. I
13 don't know whether they -- I'm sure, probably did,
14 but we wouldn't know.

15 **Q. So you discussed with Mike Couick, after you**
16 **left the ORS, the fact that you specifically recalled**
17 **Allyn Powell informing Mike Couick that Bechtel had**
18 **given to the board of SCANA a Power Point**
19 **presentation regarding its assessment; is that right?**

20 A. That wasn't since January 15. That wasn't
21 the conversation that we talked about.

22 **Q. I understand that you and Ms. Powell's**
23 **conversation with Mr. Couick predated your**
24 **conversation with Mr. Couick.**

25 MR. LIGHTSEY: Excuse me. I want

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1 to interpose an objection to the extent that any
2 of these discussions involved attorneys for ORS,
3 I would object on the grounds of attorney-client
4 privilege and the common interest to bring
5 them -- I'm not sure if they did or not. If they
6 didn't, I'm not objecting, but --

7 THE WITNESS: Well, Ms. Edwards
8 was present at the one I'm talking about.

9 MR. LIGHTSEY: Okay. Well, I
10 object on the grounds of attorney-client
11 privilege and instruct the witness not to answer,
12 especially if it's about the substance of that
13 communication.

14 THE WITNESS: We was standing
15 outside the co-op thing. Ms. Edwards was there.

16 BY MR. CHALLY:

17 **Q. And you understand Ms. Edwards is the**
18 **executive director of the Office of Regulatory Staff?**

19 A. An attorney.

20 **Q. Did you understand her in that meeting for**
21 **you personally to be serving as an attorney for the**
22 **Office of Regulatory Staff or in her capacity as the**
23 **executive director?**

24 A. I don't know whether I thought all that
25 through. I think she certainly has an expectation

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1 both ways of attorney.

2 **Q. Okay. And can you pinpoint any more**
3 **precisely when this conversation with Mr. Couick was?**

4 A. I don't know whether I -- your statement
5 wasn't accurate.

6 **Q. Okay.**

7 A. I didn't get into a discussion about Bechtel
8 or what my view of Bechtel was with Mike. I just
9 accepted what Mike said. I don't think I countered
10 it. I don't recall countering it. The date that
11 you're talking about --

12 **Q. Yes, sir.**

13 A. -- it would have had to have been after
14 SCE&G served the Interrogatories. And I don't think
15 this was the first set, I think it was a subsequent
16 set. It would have had to have been after that when
17 SCE&G served a set of Interrogatories on ORS and
18 apparently on the Co-ops. I hadn't seen those.

19 **Q. What brought about this meeting between you**
20 **and Mr. Couick and --**

21 A. We were at a meeting, and it could have been
22 one of two subjects. One is, it could have been at a
23 meeting, and probably was, that concerned the future
24 of solar in South Carolina. I am just a volunteer
25 that -- in fact, there's a meeting going on today,

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1 trying to come up with a solution regarding the cap
2 on -- they call it a cap -- on the solar. Duke
3 Energy Carolinas is admitting it's coming up against
4 what they refer to as a cap. I'm not sure, but
5 anyway, what they refer to as a cap. And that would
6 have had to have been, I think that would have had to
7 have been at that meeting.

8 **Q. And who else was in attendance at that**
9 **meeting?**

10 A. Oh, goodness.

11 **Q. A good number of people?**

12 A. Yes, sir, it's a group. It's -- I mean
13 it's -- I don't know. I mean, it's a group, I mean,
14 you have got the Coastal -- what is it Coastal --

15 **Q. Coastal Conservation League?**

16 A. Conservation League, I think you've got the
17 League of Women Voters, you have got representatives
18 from AARP, Appleseed, you have got the utilities in
19 there, sitting in there. It's a pretty -- it's a
20 broad group trying to --

21 **Q. Is this discussion that you had with**
22 **Mr. Couick and Ms. Edwards in the context of this**
23 **broader meeting or was it a separate sidebar**
24 **conversation?**

25 A. Separate, standing outside.

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1 **Q. And do you know what brought about the**
2 **separate sidebar conversation with Ms. Edwards and**
3 **Mr. Couick?**

4 A. Did you just call it a desperate?

5 **Q. No. Separate.**

6 A. Separate. Okay. We were just standing
7 outside, and somebody, you know, brought up the
8 Interrogatories, and that's what prompted it. I
9 don't know who brought it up. I don't think it was
10 me.

11 **Q. Okay. At this time --**

12 A. We were just standing outside, you know, we
13 were leaving.

14 **Q. At this time, after January 15 of 2018, did**
15 **you understand the ORS to have a common interest**
16 **agreement with the Electric Cooperatives of South**
17 **Carolina?**

18 A. I don't know when I learned that, but I do
19 know -- I do have information on that, yes, sir.

20 **Q. So you're aware of a written common interest**
21 **agreement between the Office of Regulatory Staff and**
22 **Electric Cooperatives of South Carolina?**

23 A. I'm what?

24 **Q. Are you aware of any written common interest**
25 **agreement --**

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1 A. I haven't seen a written common interest
2 agreement. I don't know whether you put them in
3 writing or whether you do it otherwise.

4 **Q. I asked you whether you're aware of a**
5 **written common interest agreement between the Office**
6 **of Regulatory Staff and the Electric Cooperatives of**
7 **South Carolina.**

8 A. Nobody told me there was a written one, but
9 my assumption would be that -- I don't know whether
10 you're supposed to assume in particular now.

11 **Q. Had anyone ever told you there was any form**
12 **of a written common interest agreement between the**
13 **Office of Regulatory Staff and the Electric**
14 **Cooperatives of South Carolina after January 15 of**
15 **2018?**

16 A. I believe that would be -- I believe -- I
17 never heard the word "written." I don't think
18 anybody ever --

19 **Q. I wasn't asking you about a written one. I**
20 **have already asked you about a written one,**
21 **Mr. Scott.**

22 I'm asking whether anyone informed you after
23 January 15 of 2018 that there was a written -- excuse
24 me -- that there was an agreement of any kind between
25 the Office of Regulatory Staff and The Electric

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1 **Cooperatives of South Carolina that formed a common**
2 **interest.**

3 A. I believe that -- I believe that's correct;
4 I think it would have had to have been after
5 January 15.

6 **Q. So someone informed you at some point that**
7 **there was an agreement between the Office of**
8 **Regulatory Staff and the Electric Cooperatives of**
9 **South Carolina?**

10 A. I knew that. Now, you know, I knew there
11 was a common interest agreement between the Office of
12 Regulatory Staff and some of the other parties. I
13 would have -- I would think that that would -- the
14 other parties would include the Co-ops, but I
15 don't -- I don't think it's limited to Co-ops.

16 **Q. Do you have any further understanding as to**
17 **the terms --**

18 A. No, sir.

19 **Q. -- of this agreement?**

20 A. No, sir.

21 **Q. Do you have an understanding that the --**
22 **this agreement applies specifically to issues**
23 **associated with the abandonment of the V.C. Summer**
24 **Nuclear project?**

25 A. I don't have any -- I don't have any

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1 information regarding what the agreement contained.

2 **Q. Is it the ORS's position that there is a**
3 **common interest agreement between the ORS and ECSC?**

4 MR. LIGHTSEY: That's my
5 understanding.

6 THE WITNESS: I'm sorry, I didn't
7 hear.

8 MR. LIGHTSEY: That's my
9 understanding.

10 BY MR. CHALLY:

11 **Q. Have you had, other than this conversation**
12 **that involved Ms. Edwards, have you had any other**
13 **discussions with Mike Couick since January 15 of 2018**
14 **regarding the V.C. Summer Nuclear Project?**

15 A. I have got to think about that because I
16 talk to Mike from time to time. I don't -- I don't
17 recall any specifics. He did, at some point, and I
18 don't know when it was, talking about this, the
19 filing of Dominion, the last filing, and settlement
20 type stuff, negotiations, that they wanted Nanette to
21 give up the \$1,000 payback that --

22 MR. LIGHTSEY: Again, I want to
23 just object to the extent this discussion
24 involved any attorneys for ORS, I would object on
25 attorney-client privilege unless it was you and

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1 Mike.

2 THE WITNESS: I think it was just
3 me and Mike.

4 BY MR. CHALLY:

5 **Q. Okay. So what do you recall from this**
6 **discussion with Mr. Couick?**

7 A. Just that, he said that -- that the -- that
8 Dominion wanted Nanette to give up the \$1,000,
9 so-called \$1,000 -- I mean, that, you know, that
10 that's what people are calling it.

11 **Q. And when was this conversation with**
12 **Mr. Couick?**

13 A. It had to be after, right after the state
14 fair.

15 **Q. The state fair?**

16 A. (Witness nodded head.)

17 **Q. When was the state fair?**

18 A. I don't know. But the reason I know that is
19 that he said that they were handing out -- Dominion
20 was handing out, you know, something at the fair
21 indicating that they were going to go get \$1,000 and
22 he mentioned that, that's why I know it was either
23 during the fair or after the fair.

24 **Q. Any other discussion that you can recall?**

25 MR. CHALLY: Who just joined?

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1 MR. SOLOMONS: John Gibson

2 Solomons. I'm sorry for interrupting.

3 MR. CHALLY: Hey, Gibson.

4 BY MR. CHALLY:

5 Q. Mr. Scott, any other discussions that you
6 can recall with Mr. Couick from January 15, 2018, to
7 the present regarding the V.C. Summer Nuclear
8 Project?

9 A. I can't -- I can't recall any.

10 Q. Is it fair to say that you have regular
11 discussions with Mr. Couick on a variety of topics?

12 A. We had discussions -- the answer to that
13 question is yes, sir.

14 Q. You think you talk to him weekly at this
15 point?

16 A. No, sir.

17 Q. Every couple of weeks?

18 A. I don't know the answer to that. I don't
19 know whether it's every couple of weeks but we do
20 have conversations on other topics.

21 Q. Do you know that Mike Couick was deposed in
22 this case?

23 A. Yes, sir.

24 Q. Did he talk to you about his deposition?

25 A. He didn't talk to me about the substance of

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1 it. He told me y'all had taken his deposition.

2 **Q. What did he tell you about the deposition?**

3 A. That's it, that -- I don't recall him
4 talking about the substance of the deposition. He
5 just told me that they had taken his deposition.

6 **Q. Okay.**

7 A. That's what I remember.

8 **Q. Does Mr. Couick -- did you tell Mr. Couick**
9 **that you're going to be deposed?**

10 A. He knows about it.

11 **Q. How do you know he knows about it?**

12 A. Well, I guess I don't know. I'm sorry about
13 that, but I'm assuming -- Frank Ellerbe's firm's
14 here, I'm sure that -- I would think he would know
15 about that, but I don't know that I told him.

16 **Q. All right.**

17 A. I'm trying to be careful here because --

18 **Q. Oh, I understand. We want your complete**
19 **memory, so --**

20 A. I'm just trying to go by the memory of this
21 thing.

22 **Q. Okay. So you have never had a discussion**
23 **with Mr. Couick about the fact that you are being**
24 **deposed?**

25 A. I can't say that. I don't know that I have.

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1 I don't -- I don't think that -- I don't recall
2 having one.

3 Q. Okay.

4 A. But I don't recall it. I don't have a
5 memory of it.

6 Q. Mr. Scott, let's just back up a second. Can
7 you walk us through your educational background, tell
8 us where you went to college.

9 A. I went to Clemson University, and then I
10 went to USC Law School.

11 Q. What year did you graduate from Clemson?

12 A. '71.

13 Q. And then was it three years later you
14 graduated from law school?

15 A. 1974.

16 Q. Prior to your role at the Office of
17 Regulatory Staff, what positions have you held in
18 South Carolina government?

19 A. I was Administrative Law Judge. I was a
20 Commissioner.

21 Q. Is that a Commissioner with the Public
22 Service Commission?

23 A. Yes, sir. And I was Deputy Executive
24 Director and Executive Assistant to the Commissions.
25 I was -- various staff positions.

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1 **Q. You said you were Deputy Executive Director?**

2 A. Yes, sir.

3 **Q. Of what?**

4 A. The Public Service Commission staff. I had
5 various positions going back to Staff Attorney.

6 **Q. With the Public Service Commission?**

7 A. Yes, sir.

8 **Q. So when did you join the Public Service**
9 **Commission?**

10 A. I went to work there in January of 1981.

11 **Q. What did you do from your graduation from**
12 **law school to 1981?**

13 A. I practiced real estate. Mainly real
14 estate; I practiced law.

15 **Q. In 1981, you joined the Public Service**
16 **Commission as a Staff Attorney; am I right?**

17 A. Yes, sir.

18 **Q. And then for how long were you employed by**
19 **the Public Service Commission?**

20 A. Well, to that time, I was employed about
21 four years. I left the Public Service Commission to
22 start a practice with Mitch Willoughby, and Mitch and
23 I were together about a year and a half and I had an
24 opportunity to go back to Public Service Commission
25 in 1986, I think it was July of 1986. I went back,

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1 and I stayed in various roles with the Public Service
2 Commission until 1999, I believe it was, when I was
3 Administrative Law Judge.

4 **Q. How long were you an Administrative Law**
5 **Judge?**

6 A. Right at five years. I was elected -- I
7 took office -- I took, I guess you would call it
8 office or whatever, in June, I think I took it in
9 June because I filled a vacant position for the
10 remainder of the term of '99, and I went back to the
11 Commission -- I mean I went to ORS July the 1st,
12 2004.

13 **Q. So July the 1st, 2004, you joined the ORS;**
14 **is that right?**

15 A. Yes, sir.

16 **Q. And then what was your position at the time**
17 **you joined?**

18 A. Executive Director.

19 **Q. And you remained Executive Director through**
20 **your separation, which was in January of 2018?**

21 A. Yes, sir.

22 **Q. Isn't it true you were involved in the**
23 **legislation that led to the creation of the Office of**
24 **Regulatory Staff?**

25 A. Yes, sir.

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1 **Q. What was your involvement with that**
2 **legislation?**

3 A. Well, I didn't know it was going on, but I
4 got a call from Mike Couick to come see him over
5 there at his office. He was then Chief Counsel for
6 the Senate Judiciary Committee. At that point in
7 time, it was pretty well drafted, he was working
8 really with, I think Nancy Koons and I think Eddie
9 Felan was -- involvement with it, but I wasn't -- I
10 did have input into it made suggestions to it.

11 **Q. The legislation that led to the creation of**
12 **the Office of Regulatory Staff, you had input on**
13 **that?**

14 A. Yes, sir, at 175.

15 **Q. Can you describe your relationship to Mike**
16 **Couick? When did you first meet Mike?**

17 A. I think we first met in 1984.

18 **Q. All right. And you've been fairly close**
19 **friends with Mike Couick; is that right?**

20 A. We're not personal friends in the sense that
21 I go to his house for dinner and he comes to mine for
22 dinner, but he's been a valued -- he's been a
23 valued -- I don't know what you would call it -- but
24 a valued person to me and my career.

25 **Q. Okay. So y'all have had a close work**

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1 **relationship since the time that you met; is that**
2 **fair to say?**

3 A. Well, I don't know how long it took us to
4 get to close. I met him in '84. But I would --
5 description of "close," I don't know what you mean by
6 "close," but we have had a relationship. I mean,
7 when I decided to run for the Public Service
8 Commission, I went and talked to Mike about it and
9 so, you know, I don't want mince words with you but
10 we've had a relationship.

11 **Q. All right. So you were the Executive**
12 **Director of the ORS for almost 14 years; is that**
13 **right?**

14 A. Well, not quite 14. I didn't make it to 14.

15 **Q. Why did you leave the Office of Regulatory**
16 **Staff?**

17 A. Oh, wow. Speaker wanted -- Speaker asked
18 me -- Speaker and Chairman of LCI asked that I
19 resign.

20 **Q. What is LCI?**

21 A. Labor Commerce and Industry, Committee of
22 the House.

23 **Q. So --**

24 A. So that -- I mean that -- you know, whether
25 that's the sole -- I mean, I could go -- so they

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1 asked me to resign.

2 **Q. Sorry, just to make sure we have the time**
3 **line right, when did Speaker Lucas ask you to resign?**

4 A. August 23rd, 2000, I guess it was '17. He
5 wanted -- he told me I needed -- and it wasn't a bad
6 conversation, but he wanted to talk, and I said I'll
7 be gone by December 31st, which I didn't make it
8 quite to December 31st but I announced it for
9 December 31st.

10 But the other thing is -- I mean, they said
11 it was other factors involved, including personal,
12 emotional health, physical health, family, it's just
13 those types of issues played an important role as
14 well.

15 **Q. So what prompted this meeting; was it an**
16 **in-person meeting with the Speaker on August 23,**
17 **2017?**

18 A. Yes, sir. You asked me if it was an
19 in-person meeting?

20 **Q. I did?**

21 A. Yes, sir.

22 **Q. What prompted this in-person meeting?**

23 A. Well, I was testifying before the House
24 panel and apparently wasn't doing -- anyway. But
25 testifying before the House panel, they took a break,

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1 Mr. Dennis came and got me and said the Speaker
2 wanted to -- something. Anyway, whatever he said he
3 said it, and he took me up to the Speaker's office.

4 **Q. You said Mr. Dennis?**

5 A. Patrick Dennis, yes, sir, he was something
6 to the Speaker.

7 **Q. Okay.**

8 A. And went into the Speaker's office and the
9 Chairman Senator was there, I don't remember the
10 exact words but the gist of it was that they thought
11 I should resign, and said December 31st. They were
12 not mean at all, they were --

13 **Q. Did he describe to you why he thought you**
14 **should resign?**

15 A. I don't think he did. I mean, you know,
16 once the Speaker of the House and Chairman ask you --
17 tell you you need to resign, you kind of lose your
18 composure.

19 **Q. Did you -- okay. So what happened following**
20 **that meeting?**

21 A. I was escorted out of the Blount building
22 and --

23 **Q. Did you have an understanding as to what**
24 **prompted the Speaker to tell you to resign?**

25 A. I don't think so. I mean, I don't think I

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1 did. You know, just thought it was best if I
2 resigned that -- he said that there was some, you
3 know, other House members that thought I should
4 resign and -- but, I mean, he didn't give me a list
5 of things I had done wrong.

6 **Q. Did you talk with Mr. Couick about the**
7 **Speaker's request?**

8 A. Yes, at some point in time, I'm sure I did.

9 **Q. What do you recall about that discussion?**

10 A. Nothing, I don't recall anything. I mean,
11 it was -- I'm sure I talked to him about it. But I
12 got a call from the governor's office before I left.
13 You know, this was a traumatic time. I knew it was
14 going to be probably front page news, and I think it
15 was, about it, and I've got family, you've got
16 consideration about pass it to your family and that
17 sort of thing. I'm sure I had discussions about the
18 resignation issue. I don't recall the substance of
19 it.

20 **Q. Did you agree with the Speaker's instruction**
21 **that you resign?**

22 A. I don't know that I agreed, but I did go to
23 the governor's office and offer to resign based on
24 him. The governor didn't accept the resignation at
25 that point in time.

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1 **Q. So when was your -- when did you meet with**
2 **the governor, as you just described?**

3 A. Immediately after. I got called -- somehow
4 the word gets out, I mean, it got out before the
5 Sargent of Arms escorted me out of the building
6 through the back way, I guess you call it, or the
7 side way, and that's when I met with, I believe -- I
8 think it was the governor -- I think I met with the
9 governor himself.

10 **Q. So you went straight from the Speaker's**
11 **office to the Governor's office?**

12 A. I got called to go to the Governor's office.
13 I didn't just go there. But, yes, I don't think I
14 left the State House grounds before I was in the
15 Governor's office.

16 **Q. So you go to the Governor's office and you**
17 **tendered your resignation to the Governor; is that**
18 **right?**

19 A. Not a written one, but they said it didn't
20 require a written one.

21 **Q. So you said orally to the Governor, I am**
22 **willing to resign?**

23 A. Something to that -- well, I think I said
24 that to his Chief Counsel.

25 **Q. What do you recall about that conversation**

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1 **beyond what you said?**

2 A. I said I need to offer my resignation, and
3 she said we don't require written resignations and we
4 don't accept it or reject it or whatever, but -- see,
5 the Governor is -- the Governor is the one that can
6 fire the Executive Director, I guess you could say,
7 so -- but they didn't want to take -- they did not
8 take it at that point in time.

9 **Q. So the Governor did not take your**
10 **resignation at that time?**

11 A. His staff, one or the other, I think it
12 was -- I think it was his staff, Ms. Taylor.

13 **Q. So did you have a specific conversation with**
14 **the Governor?**

15 A. I had that on the way out.

16 **Q. Okay.**

17 A. But I don't -- I don't -- you know, I think,
18 at that point, I think it was in the press that he
19 would not accept the resignation. I don't think -- I
20 think it was the next day or so. The Speaker -- this
21 was on a Wednesday, and the Speaker told me to do it
22 by Friday so I needed to do it by Friday. But I
23 think it was in the paper, and that could be
24 verified, I mean, that she wasn't going to accept the
25 resignation.

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1 Q. So then what transpired following that
2 point?

3 A. I mean, I don't know what you mean by what
4 "transpired."

5 Q. What transpired that led you to ultimately
6 decide to resign?

7 A. Oh, between that --

8 Q. You have the Speaker -- let me finish my
9 question.

10 A. I'm sorry.

11 Q. You have the Speaker who is indicating that
12 you should resign. The Governor is the only one who
13 can formally accept that resignation. The Governor
14 tells you he doesn't want you to resign, but then
15 some point shortly thereafter you do in fact decide
16 to resign. So what transpired to lead to that
17 result?

18 A. Well, again, the legislative session was
19 coming back in. I felt that I would be -- I felt
20 that my continued employment wouldn't be good for the
21 ORS. I mean, if you have got -- if you've got -- if
22 you don't have the support of the Chairman of the LCI
23 Committee, who is also Vice Chairman of the Public
24 Utility Review Committee, you don't have the support
25 of the Speaker. I thought I would be a detriment.

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1 But there was more to it than that. The
2 whole thing was so traumatic that I was afraid it was
3 affecting my mental health, my physical health, it
4 was affecting my wife, Judy, it was just a traumatic
5 time. I wasn't being productive at work anymore
6 and -- I wasn't being productive at work, I guess I
7 should say.

8 And I just -- and I felt like by then also
9 that, you know, there was going to be a dispute with
10 SCE&G. I have always worked closely with SCE&G, and
11 I couldn't, I don't know how I would handle going
12 through the cases at this point in time. So there
13 was a lot of things.

14 But very clearly in my mind was that you
15 know, the Speaker had always been nice to me and good
16 to me, and he thought I should go, you know, that
17 certainly weighed on. And also probably attributed
18 to the mental health issue, the physical, I quit
19 exercising, I mean, I quit doing things that I did to
20 maintain my health and stuff. So it was a lot of
21 things that were going on in my mind at that time.

22 **Q. So the Speaker never recanted his**
23 **recommendation to you that you resign?**

24 A. No, sir. He didn't call me up every day and
25 tell me -- I'm sorry, I interrupted you.

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1 **Q. That's fine. But eventually you decided,**
2 **notwithstanding what the Governor had suggested, it**
3 **was appropriate for you to resign?**

4 A. And I took it, right.

5 **Q. And then you informed the Governor of that**
6 **fact?**

7 A. I talked to Ms. Taylor and I told her I had
8 to go.

9 **Q. And what explanation did you provide to**
10 **Ms. Taylor as to why you needed to go?**

11 A. Similar to -- I guess similar to what I just
12 told you.

13 **Q. And part of that was you didn't think that**
14 **you would be effective in a dispute with SCE&G; is**
15 **that right?**

16 A. No, sir. I don't know about "effective."
17 It's just -- it would be hard to, you know, it would
18 be difficult to go through this. I didn't think it
19 wouldn't be effective, no.

20 **Q. When you say it would be hard to go through,**
21 **what do you mean?**

22 A. Well, I don't know how to explain it. It
23 would just be, I mean, a difficult task to go through
24 and also, you know, I had great -- at one time, I had
25 great respect for SCE&G and SCANA.

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1 Q. Okay. "Hard," do you mean hard emotionally
2 on you?

3 A. Oh, yes.

4 Q. When you're using the word "hard," that's
5 what you're referring to?

6 A. Yeah, in terms of emotionally on me. I'm
7 not talking about anything else.

8 Q. Did anyone on the ORS staff tell you that
9 you should resign?

10 A. No, sir, I don't think so. I don't remember
11 anybody telling me that.

12 Q. Did any member of the Public Service
13 Commission tell you that you should resign?

14 A. No, sir, I don't think so.

15 Q. Did anyone affiliated with the Public
16 Service Commission tell you you should resign?

17 A. Not that I recall.

18 Q. Did you inform anyone affiliated with the
19 Public Service Commission the Speaker had told you
20 you should resign?

21 A. I mean, it was in the paper, so they knew
22 about it.

23 Q. But did you have a discussion with anyone
24 affiliated with the Public Service --

25 A. I had a discussion with Commissioner

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1 Flemming right after that.

2 **Q. What did Commissioner Flemming inform you?**

3 A. She didn't say you should resign, I mean --

4 **Q. What did you discuss?**

5 A. I just told her that what the Speaker had
6 said and the Governor hadn't accepted it, but I don't
7 remember the substance of the conversation. She was
8 very kind, but she didn't say you need to resign.

9 **Q. When did you actually stop working for the**
10 **Office of Regulatory Staff?**

11 A. Depends on who you ask that question, I
12 guess. In the sense of being employed there or in
13 the sense --

14 **Q. I know you separated from the ORS in January**
15 **of 2018. I want to know when you stopped having any**
16 **active duties or responsibilities with the Office of**
17 **Regulatory Staff.**

18 A. Well, I was -- I continued to be responsible
19 for it to January 15. I became very inactive. I
20 think I became inactive and put a big burden on the
21 staff shortly after August with the Speaker. And the
22 abandonment.

23 Now, I believe that I was on annual leave
24 from December the 15th to January the 15th. It could
25 be that I would go down there periodically; but

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1 active, I was pretty much on annual leave.

2 Q. You were going to the Office of Regulatory
3 Staff, but from this time of August 23 through
4 December of mid-December of 2017; is that right?

5 A. Well, I wasn't going every day, but -- and I
6 think I took an extended time at Thanksgiving.

7 Q. But you maintained your responsibility and
8 your role as Executive Director of the Office of
9 Regulatory Staff at that time?

10 A. I retained the position of Executive
11 Director which, to me, would make -- I mean, I would
12 still be responsible.

13 Q. So were you informed of decisions that the
14 Office of Regulatory Staff was making during that
15 time frame?

16 A. I would -- I mean, I don't remember that,
17 but I would think that -- that there were -- they
18 were informing me, but I don't remember specific.

19 Q. And your approval saw if there were specific
20 things needed for the Office of Regulatory Staff
21 during that time?

22 A. I don't recall there being that discussion,
23 but that doesn't mean there wasn't one.

24 Q. Were you still with the Office of Regulatory
25 Staff when it made the decision to hire the Wyche

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1 **firm as outside counsel on matters related to**
2 **project?**

3 A. No, sir.

4 **Q. You were not?**

5 A. No, sir, I wasn't with them.

6 **Q. So you understand that that occurred after**
7 **your departure from the Office of Regulatory Staff?**

8 A. That's my understanding, I mean.

9 **Q. Are you familiar with the circumstances that**
10 **led the Office of Regulatory Staff to engage the**
11 **Wyche firm?**

12 A. I mean, I know they had a big case going on
13 and those circumstances.

14 **Q. Other than that, are you in any way familiar**
15 **with the circumstances that led the Office of**
16 **Regulatory Staff to engage the Wyche firm?**

17 A. I think I suggested it.

18 **Q. Who did you suggest that to?**

19 A. Ms. Edwards.

20 **Q. Is this the first time that the Office of**
21 **Regulatory Staff had ever hired outside counsel to**
22 **handle a matter pending before the Public Service**
23 **Commission?**

24 A. Matter pending before the Public Service
25 Commission? To my knowledge, I can't remember

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1 another time.

2 **Q. When did you suggest to Ms. Edwards that**
3 **they hire the Wyche firm, the Office of Regulatory**
4 **Staff?**

5 A. Sometime after January 15, but I don't know
6 when.

7 **Q. Were you aware at the time you suggested to**
8 **Ms. Edwards that the Office of Regulatory Staff hire**
9 **the Wyche firm that Wyche had been engaged by SCE&G?**

10 MR. LIGHTSEY: Object to the form.

11 THE WITNESS: Sir?

12 MR. LIGHTSEY: I'm objecting to
13 the form of the question.

14 THE WITNESS: I don't know what
15 that means.

16 BY MR. CHALLY:

17 **Q. You can still answer the question.**

18 A. I was -- repeat the question, please.

19 **Q. Sure. Were you aware, at the time you**
20 **suggested to Ms. Edwards that the Office of**
21 **Regulatory Staff engage the Wyche firm, that Wyche**
22 **had been engaged by SCE&G?**

23 MR. LIGHTSEY: Object to the form.

24 THE WITNESS: No, I wasn't aware
25 of it at the time, no, sir.

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1 THE COURT REPORTER: I'm sorry,
2 what was your answer?

3 THE WITNESS: I wasn't aware of it
4 at the time I suggested it, and I'm still not
5 aware; I don't know that I'm aware of it.

6 BY MR. CHALLY:

7 **Q. So you're not aware, even as we sit here**
8 **today, that at some point in the past Wyche had been**
9 **engaged by SCE&G?**

10 A. Yeah, I understand that SCE&G raised that
11 issue, I was told that.

12 **Q. Who told you that?**

13 A. I'm sure it was probably Ms. Edwards that
14 told me that, but I wasn't aware of it at the time I
15 suggested.

16 **Q. All right. Ms. Edwards told you that after**
17 **you left the Office of Regulatory Staff?**

18 A. The whole conversation, I think, yes, sir,
19 she told me that after.

20 **Q. What was your understanding of the purpose**
21 **for Ms. Edwards' conversation with you on that topic?**

22 A. I might have raised the issue to her. I
23 don't know.

24 **Q. So you became aware of the fact that**
25 **SCE&G --**

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1 A. Oh, no, no, no, we're not talking about the
2 same thing. Okay. Please explain your question.

3 **Q. What is your understanding of the**
4 **circumstances that led to you having a discussion**
5 **with Ms. Edwards about the fact Wyche had previously**
6 **been engaged by SCE&G?**

7 A. I don't -- I don't know what led to the
8 discussion.

9 **Q. Did you understand Ms. Edwards to be**
10 **providing you with privileged or confidential**
11 **information?**

12 A. No, sir.

13 **Q. Then what did you -- what do you recall**
14 **about this discussion with Ms. Edwards?**

15 A. I said, you know, that there was some issue
16 raised by SCE&G.

17 **Q. And you don't recall anything else about**
18 **that conversation?**

19 A. No. I mean, somehow it got worked out, but
20 I don't know what happened.

21 MR. CHALLY: Okay. I want to take
22 a quick break.

23 THE VIDEOGRAPHER: Off the record
24 at 10:58.

25 (A recess was taken.)

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1 THE VIDEOGRAPHER: Back on the
2 record at 11:09.

3 BY MR. CHALLY:

4 Q. Mr. Scott, you're familiar with the Base
5 Load Review Act, are you not?

6 A. Yes, sir.

7 Q. And you, in fact, supported the passage of
8 the Base Load Review Act; isn't that right?

9 A. Yes, sir.

10 Q. You thought it would incentivize utility
11 companies to invest resources necessary to lead to
12 the construction of new base load facilities; is that
13 right?

14 A. I thought it was needed in order for them to
15 raise the capital to build a nuclear plant.

16 Q. And then what specifically about the BLRA
17 was needed to justify utility investing capital in a
18 new base load facility?

19 A. Well, keep in mind, at the time -- I can't
20 tell you what to do, but I would ask you to keep in
21 mind, at the time, the ORS's mission was threefold,
22 which is different than it is today, and that one of
23 those things was that economic development of jobs
24 and then financial integrity of the utility.

25 The things I thought were needed in the Base

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1 Load Review Act or agreed that were needed based on
2 that mission. And I went through the '80s with the
3 nuclear plants and some of the issues that arose
4 there, and I thought that if you were going to
5 maintain financial integrity utility and let them
6 attract the capital necessary to build a nuclear
7 plant that you would need a review by the Public
8 Service Commission before it -- before it got --
9 before it got started. I mean, in the past, you
10 didn't. In some in the past you didn't have it, and
11 in fact, you know, if we got a share of the -- we
12 assigned an economic share of the nuclear plants in
13 North Carolina, and they didn't even have to come
14 under the Citing Act because they were in North
15 Carolina, not South Carolina. So this would give the
16 opportunity for the utility -- it wasn't mandatory,
17 but the utility company can get a prior review by the
18 Commission and give it the prudence issue.

19 **Q. So you understood that the critical piece to**
20 **incentivize utilities as provided for in the BLRA was**
21 **a prudence determination before construction began;**
22 **is that right?**

23 A. Well, that was one of the things.

24 **Q. Okay. What else?**

25 A. Well, I thought that the ability to get

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1 the -- I thought the revised rates were important.
2 In fact, Duke Energy, I think, went public and said,
3 until they got something similar in North Carolina,
4 they couldn't build the Lee plant. So I thought the
5 some -- in the past, in order to get a cash return on
6 the construction work in progress, they had to come
7 in for a general rate case on everything. So -- but
8 so to incentivize, I guess you could say, or to raise
9 the capital at the lowest price, I thought the
10 revised rate methodology was helpful as well. Those
11 are some of the things that come to mind.

12 **Q. Anything else about the BLRA that you**
13 **thought was critical to incentivizing utilities to**
14 **construct new base load facilities?**

15 A. I'm sure there was at the time, but those
16 are the two main things.

17 **Q. Those are the two things that you recall**
18 **that --**

19 A. That come to mind, yes. Now, I may have
20 testified, you know, with additional, but those are
21 the two that come to mind today with this question.

22 **Q. So you understood then that through the**
23 **BLRA, this pre-construction prudence determination**
24 **would remain in place so long as the utility was**
25 **meeting the schedule and cost estimates determined by**

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1 **the Public Service Commission to be prudent; isn't**
2 **that right?**

3 A. Well, so long as, you know, so long as there
4 was full disclosure and transparency on those issues.
5 I mean, those are side issues, now. But if it stayed
6 on budget and stayed on schedule, that's probably --
7 my understanding was that you had that initial
8 prudence, and then unless somebody could come in and
9 show that it was imprudent, is my understanding as I
10 sit here today.

11 **Q. Yeah, and that was a piece of the BLRA that**
12 **you thought important to incentivize utilities to**
13 **conduct -- or construct the new base load facilities?**

14 A. I don't know that I used the word
15 "incentivize" the utility, but to provide the
16 utilities the opportunity to raise the capital and
17 maintain financial integrity at reasonable rates, I
18 thought there was.

19 **Q. All right. And then it's your understanding**
20 **that that prudence determination, once made, couldn't**
21 **be revisited; isn't that right?**

22 A. No, sir.

23 **Q. You did not understand that?**

24 A. No, sir.

25 **Q. You understood that the prudence**

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1 **determination may, at the outset, could be revisited?**

2 A. I thought -- here's what I'm thinking now.
3 I haven't looked at the Base Load Review Act in a
4 long time. But what I'm thinking is that it did
5 shift the burden of proof to whoever wanted to come
6 in and show in a modification case that there was
7 imprudence involved. I don't think it was in the
8 sense that never challenge; I think the challenge
9 became on the part of who was challenging it, rather,
10 in a typical case.

11 **Q. But absent -- absent this challenge and**
12 **ultimately a challenge that is deemed worthy by the**
13 **Public Service Commission, the pre-construction**
14 **prudence determination would remain valid and**
15 **binding, correct?**

16 MR. LIGHTSEY: Object to the form.

17 THE WITNESS: I don't know. I
18 don't know -- I don't want to play games with
19 you, but I thought that -- I don't know that it
20 could never be challenged.

21 BY MR. CHALLY:

22 **Q. I didn't say that it could never be**
23 **challenged. I said, you identified the circumstances**
24 **in when it could be challenged; someone coming in and**
25 **raising imprudence. But would you agree with me that**

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1 **just raising imprudency alone wasn't enough; you had**
2 **to prove imprudency, correct?**

3 A. I think so, but, you know, I'm not looking
4 at -- the Base Load Review Act has never been acted
5 upon. I have had people ask me when I was still
6 there about those kinds of questions, and I said, the
7 answer to your question is, I don't know whether what
8 you're saying is right or wrong because there's never
9 been a case under it, and it took -- so we don't know
10 what the Public Service Commission is going to say.

11 **Q. But for your purpose, the pre-construction**
12 **prudency determination was important to allow the**
13 **utility to attract capital necessary to construct a**
14 **new base load facility?**

15 A. I think that's a correct statement.

16 **Q. And it was your understanding that that**
17 **pre-prudency determination would hold, absent a**
18 **finding of imprudency later raised by someone else?**

19 A. I'm scared to say that definitively because
20 I don't know what the Public Service Commission is
21 going to be saying. But I didn't think you had -- I
22 didn't think you had to re-litigate it every year.

23 **Q. Okay. And then what was it -- what**
24 **specifically about the revised rates -- well,**
25 **actually, let me just make sure I understand that**

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1 point.

2 So you understood that the -- you wouldn't
3 have to prove again prudence after the
4 pre-construction prudence determination; is that
5 right?

6 MR. LIGHTSEY: Object to the form.

7 THE WITNESS: I don't know. It
8 was my understanding at the time that you get a
9 prudence determination, and then it would be up
10 to someone else to come in and show imprudence.

11 BY MR. CHALLY:

12 Q. And they would have the burden of showing
13 that?

14 A. I think they had the burden to show it.

15 Q. And absent them discharging that burden, the
16 pre-construction prudence determination would remain?

17 MR. LIGHTSEY: Object to the form.

18 BY MR. CHALLY:

19 Q. That was your understanding?

20 MR. LIGHTSEY: Object to the form.

21 THE WITNESS: My understanding was
22 that you got the prudence determination and it
23 stayed unless somebody came in and challenged it
24 successfully with a burden.

25

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1 BY MR. CHALLY:

2 Q. Now, you also talked about revised rates
3 proceedings; that that was an important piece of the
4 BLRA.

5 A. Yes.

6 Q. And is the important aspect of the revised
7 rates proceeding that it allowed the utility to
8 recover the costs actually incurred?

9 A. No, sir.

10 Q. Let me finish my question.

11 A. Oh, I thought you stopped.

12 Q. I'm slow sometimes. Sorry.

13 Was the important aspect of revised rates
14 proceedings the fact it allowed the utility to
15 recover the capital costs once incurred after they
16 have been deemed prudent in the pre-construction
17 prudence review?

18 A. No, sir.

19 Q. Then what was it about the revised rates;
20 proceedings that --

21 A. You didn't recover the cost of capital in
22 the revised rates -- the cost of the capital
23 investment.

24 Q. That's what I meant, yeah.

25 A. You don't recover the cost of the investment

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1 in revised rates.

2 **Q. I understand. It's the financing cost**
3 **associated with the work that is done to construct**
4 **the plant, right?**

5 A. Yes.

6 **Q. So it's your understanding that the revised**
7 **rates proceedings allowed the utility to collect**
8 **those financing costs so long as those costs were**
9 **incurred in line with the schedule and cost estimates**
10 **approved by the PSC prior to construction beginning,**
11 **correct?**

12 A. I don't think so.

13 **Q. Okay. Then what did you understand the**
14 **revised rates proceedings to be?**

15 A. The revised rates proceeding allowed for the
16 recovery of what we call the cost of capital, the
17 financing cost, so long as the utility was in
18 compliance with the order of the Commission. Now --
19 so that's the answer, I mean, as long as they were in
20 compliance with the Commission's order that we would
21 be -- I think the word in the statute, you would know
22 better than me -- might be the word entitled to the
23 cost, cash cost of capital rather than accrue AFUDC
24 and pile that onto the end of the project.

25 **Q. And that's because the Commission had**

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1 **already made a determination as to the prudence of**
2 **those costs prior to construction beginning; isn't**
3 **that right?**

4 A. I don't think that's the reason. I think
5 the reason is that the company would have to be in
6 compliance with the pre -- the past order of the
7 Commission.

8 **Q. The order of the Commission that approved as**
9 **prudent certain aspects of the project?**

10 A. Well, it's subsequent orders, too, because
11 they -- they would come in for modification in order
12 to get in compliance with the past Commission orders.
13 So it didn't relate back necessarily -- this is my
14 opinion, I mean, that's all it is opinion -- didn't
15 relate back to, necessarily to the original order; it
16 related back to the last order of the Commission.
17 They had to be in compliance with the previous order
18 of the Commission.

19 **Q. And that order would have approved as**
20 **prudent certain costs associated with the**
21 **construction activities, correct?**

22 A. The subsequent orders wouldn't. Subsequent
23 orders would be based on whether someone could come
24 in and show that the modifications were incurred by
25 imprudence on the part of the utility.

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1 Q. Okay. Let's try to do this a little bit
2 more precisely then. Do you understand that SCE&G
3 received an order from the Public Service Commission
4 approving of the petition for base load review order
5 associated with the V.C. Summer Nuclear Project?

6 A. That's my understanding.

7 Q. When, to your understanding, did the Public
8 Service Commission first issue that order?

9 A. I think it was 2009, but I don't know.

10 Q. And then you're aware that, in that order,
11 you're aware, are you not, that the Public Service
12 Commission deemed prudent certain aspects of the
13 construction of Units 2 and 3 at V.C. Summer, right?

14 A. You will need to show me that. I haven't
15 read that order.

16 Q. I understand you haven't read that order.
17 But is your understandings, as we sit here today,
18 that the Public Service Commission approved as
19 prudent certain aspects of the construction activity
20 for Units 2 and 3?

21 A. I don't want to get in a debate with you but
22 I haven't read the order, so it says what it says it
23 says.

24 Q. Do you disagree with my characterization of
25 what that order --

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1 A. I don't agree nor disagree because I haven't
2 seen --

3 **Q. But you read the order when it came out,**
4 **didn't you, Mr. Scott?**

5 A. No, sir. No, sir.

6 **Q. You didn't read the order approving the**
7 **construction of Units 2 and 3 when it came out?**

8 A. No, sir.

9 **Q. Why not?**

10 A. Because that's what we have staff for.

11 **Q. You're the Executive Director of the Office**
12 **of Regulatory Staff and didn't read the order from**
13 **the Commission approving the construction of Units 2**
14 **and 3?**

15 A. That's correct. I haven't read the order.
16 That's what you have -- I mean, the Commission issues
17 lots of orders.

18 **Q. That was a pretty important order, wasn't**
19 **it, Mr. Scott?**

20 A. Yes, sir, but I had important people on it.
21 I haven't read it.

22 **Q. Okay. All right. But you know in 2009 that**
23 **there was an order approving the construction of**
24 **Units 2 and 3?**

25 A. I believe that to be true, yes.

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1 **Q.** And you know that the company, following
2 that order, immediately following that order, came
3 in, I believe, in 2010 in the revised rates
4 proceeding, correct?

5 A. Well, they had it -- I don't think it was
6 revised rate proceeding but the 2009 order actually
7 had a rate case in it, too.

8 **Q.** But you know that --

9 A. For the same thing. But I know the company
10 has been in, I believe it's been in nine times. I
11 don't -- I'm sure they came in 2010, but I can't say
12 that with certainty but I'm sure they did.

13 **Q.** So in, 2010, the company went to the Public
14 Service Commission in a revised rates proceeding and
15 sought to include in the rate base certain aspects of
16 the construction costs that were contemplated by the
17 2009 order approving the construction of Units 2 and
18 3; isn't that right?

19 A. I don't agree with the concluding and rate
20 base anything. The -- what they got is -- what they
21 got was an order allowing them to recover the
22 financial costs associated with capital investment.
23 I don't think there was a -- I don't think there was
24 a line item in rate basing, as I'm recalling it.

25 **Q.** So they were allowed, in 2010 order, recover

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1 the financing costs incurred between the time of the
2 order approving the construction and the time of the
3 petition seeking to include those financing costs?

4 A. I believe that's true.

5 Q. And the prudence of those costs had been
6 determined by the 2009 order; isn't that right?

7 A. I think that's true.

8 Q. And that's the aspect of the revised rates
9 proceedings that you thought was important?

10 A. Well, the aspect that I thought was
11 important was it provided for the cash recovery of
12 the financing cost associated with that investment so
13 that you don't -- you're not piling up AFUDC and also
14 it was very attractive to the investment.

15 Q. All right. Now, you thought the BLRA was a
16 good thing when it was passed by the General Assembly
17 of South Carolina; isn't that right?

18 A. Yes, sir.

19 Q. And you also thought the BLRA was a good
20 thing even as late as 2016, right?

21 A. 2016, I had not -- yes, sir.

22 (Exhibit No. 1 was marked for
23 identification.)

24 Q. Okay. I'm going to hand you what I have
25 marked as Exhibit 1 to your deposition.

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1 A. Okay, yes, I'm familiar with this.

2 Q. This is a -- appears to be a press release;
3 isn't that right?

4 A. Yes, sir.

5 Q. And you're familiar with this press release,
6 Mr. Scott?

7 A. Yes, sir.

8 Q. Were you involved in the preparation of it?

9 A. I'm sure I was. I mean, we have somebody
10 who does the press releases and I'm sure there was
11 other involvement, but, yes, sir, it's got a quote in
12 here from me.

13 Q. Yes. So the press release reports on an
14 analysis that, as the ORS described it, confirmed a
15 revised rate methodology under the BLRA's cost
16 beneficial to customers; is that right?

17 A. Oh, yes, sir.

18 Q. And you agree with that --

19 A. Correct.

20 Q. -- the revised rate methodology under the
21 BLRA is cost beneficial to customers?

22 A. At that time, I did, yes.

23 Q. And what -- so the ORS had engaged the firm
24 of Elliott Davis Decosimo, is that correct, LLC, is
25 that how you pronounce that?

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1 A. I don't know how to pronounce the name, I
2 just say Elliott Davis somebody else. But we engaged
3 their services, yes, sir.

4 **Q. And what led the Office of Regulatory Staff**
5 **to engage Elliott Davis?**

6 A. Well, from the beginning, SCE&G had said
7 that the revised rate methodology would save the
8 customers \$1 billion in capital costs and \$4 billion
9 over the life of the plant. And that's a logical --
10 that is going to save, the dollar amount would save.
11 And as the costs were going up in 2015, 2016, I and
12 the ORS had decided, well, we believe that that's to
13 be true, but it seems for the public standpoint we
14 need something besides just SCE&G saying it.

15 So we engaged Elliott Davis to confirm that,
16 and they did confirm that it does -- in fact, it --
17 you know, if the thing had come on line in 2016 and
18 '18, then this revised rate methodology would have
19 been an asset to the customer.

20 **Q. What were the terms of the ORS's engagement**
21 **of Elliott Davis, do you recall?**

22 A. I don't know. I didn't handle that
23 personally.

24 **Q. Do you know whether or not the ORS engaged**
25 **Elliott Davis pursuant to provisions of South**

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1 **Carolina Code that are applicable to general rate**
2 **proceedings?**

3 A. I don't -- tell me what you're talking about
4 as "general rate proceedings."

5 **Q. Well, as distinct from proceedings specific**
6 **to the BLRA.**

7 A. I don't know what you're talking about.

8 **Q. Do you know provisions of the South Carolina**
9 **Code that authorize the Office of Regulatory Staff to**
10 **engage outside experts?**

11 A. Yes, sir.

12 **Q. And was it those provisions of the South**
13 **Carolina Code that the Office of Regulatory Staff**
14 **relied on to engage Elliott Davis in 2016?**

15 A. I don't think so, because the Code you're
16 talking about is we engage and utility pays for it.
17 Utility, other than through the normal assessment, we
18 took this out of our regular budget.

19 **Q. So this particular report was paid for out**
20 **of the Office of Regulatory Staff's budget?**

21 A. Budget, yes.

22 **Q. And that's distinct from an expert, say,**
23 **like Gary Jones, correct?**

24 A. Yes, sir.

25 **Q. Gary Jones, who was hired under the**

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1 provisions of the South Carolina Code that allowed
2 regulatory staff to hire experts and require the
3 utility to pay for cost of that extra, correct?

4 A. Yes, sir.

5 Q. And that's a provision of the Code the ORS
6 invoked to carry out its audit and oversight
7 functions for the V.C. Summer project, correct?

8 MR. LIGHTSEY: Object to the form.

9 THE WITNESS: That was part -- my
10 understanding -- again, I know you think the
11 Executive Director knows everything that goes on
12 every day, or should, but all that's handled --
13 was handled by someone other than me. I didn't
14 select Mr. Jones and I think he did a great job
15 but I am not the one that selected him.

16 But there's provision -- that's
17 not the only thing, because there is provision in
18 the Base Load Review Act which allows the ORS to
19 hire outside -- inside staff and get -- and
20 assess the special assessment to the utility. I
21 think the first unit you get two, and then every
22 unit after that you get three.

23 So the one you're talking about, I
24 think is accurate; there is one that allows us to
25 hire Gary Jones and have -- and bill the utility

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1 for it, but that's not the only one. There is
2 also what I just described.

3 BY MR. CHALLY:

4 **Q. But the provision that allowed the ORS to**
5 **hire Gary Jones is a provision that the ORS invoked**
6 **in connection with the V.C. Summer project, correct?**

7 A. We did invoke that. Now, I don't know
8 whether we did it BLRA specifically or under the
9 general law. I don't know which section we invoked
10 it under.

11 **Q. Do you recall any work product that Elliott**
12 **Davis provided beyond the document that was attached**
13 **to that press release in Exhibit 1?**

14 A. If they did, I don't know it.

15 (Exhibit No. 2 was marked for
16 identification.)

17 **Q. Now I'm going to hand to you, Mr. Scott,**
18 **what I have marked as Exhibit 2. The first page is**
19 **an e-mail exchange that you're not on from Allyn**
20 **Powell to Anthony James with a cc to Gary Jones and**
21 **Gene Soult. The subject line is "Final**
22 **Presentation."**

23 I'm just going to ask you about the
24 **presentation that follows, which is entitled "Status**
25 **of the V.C. Summer Units 2 and 3 Nuclear Power**

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1 **Plants."**

2 **Do you see that?**

3 A. Yes, sir.

4 **Q. Are you familiar with this presentation?**

5 A. I mean, I don't remember it.

6 **Q. Do you remember being involved in a**
7 **presentation provided to the Electric Cooperatives of**
8 **the South Carolina in March of 2016 regarding**
9 **V.C.Summer Units 2 and 3?**

10 A. Can you tell me where it was?

11 **Q. No, sir, I can't. But I can tell you this**
12 **is a presentation that, according to testimony in**
13 **this case, was provided to the Electric Cooperatives**
14 **in South Carolina in March of 2016.**

15 A. I don't doubt it, I just don't remember it.

16 **Q. You don't remember being involved in this**
17 **presentation Gary Jones made to the Cooperatives?**

18 A. I remember Gary making one at Kiawah, but I
19 don't know whether this is it or not. I don't
20 remember this particular one, if that's not it. I
21 don't remember but one.

22 But, now, listen -- I'm not telling you what
23 to do again -- but it could happen and I'd be sitting
24 there and still not remember it.

25 **Q. Okay. Do you recall -- have you had a**

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1 **chance to flip through this presentation?**

2 A. No, sir.

3 **Q. Okay. Can you take a minute just to do**
4 **that, familiarize yourself with it briefly.**

5 A. I'm not saying I wasn't sitting there but I
6 am not familiar with it. I just don't remember it.

7 **Q. So you don't recall being involved in the**
8 **preparation of this; is that right?**

9 A. I don't recall being involved. Now, some of
10 the things are familiar because some of these things
11 are on our website -- not our website but ORS's
12 website. But that doesn't mean anything, I just
13 don't --

14 **Q. You can put that one to the side. I am**
15 **going to show you another document.**

16 **(Exhibit No. 3 was marked for**
17 **identification.)**

18 **Q. This is Exhibit 3.**

19 A. Yes, I think this was put on ORS's website.

20 **Q. Yeah. So the first page of the document is**
21 **an e-mail from you to Mr. James, Ms. Powell, and Gary**
22 **Jones. You're asking about the website, and you say**
23 **that this, the attachment, is from our review**
24 **committee letter which is already public. Would you**
25 **be okay with us putting it on our website, right?**

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1 A. Right.

2 **Q. So you recall this particular e-mail?**

3 A. I don't recall this particular e-mail but
4 I'm -- but they would haven't put it on there if they
5 asked me if and I hadn't seen it and responded to it.

6 **Q. Yeah, so you do recall the letter that**
7 **attached -- that is attached to the e-mail, right?**

8 A. Well, I do recall the letter that's attached
9 to it, yes, sir.

10 **Q. And this is information related to the BLRA**
11 **and the V.C. Summer Nuclear Units that you were**
12 **involved in preparing back in 2016; is that right?**

13 A. What was that question?

14 **Q. This is information relate to the V.C.**
15 **Summer Nuclear Units and the Base Load Review Act**
16 **that you were involved in preparing in 2016; is that**
17 **right?**

18 A. I wouldn't say that. I think Anthony and
19 Allyn prepared it. I don't think I was involved in
20 the preparation of the thing.

21 **Q. But you were recommending or you're asking,**
22 **at least, that it be made available through the ORS's**
23 **website, correct?**

24 A. I wasn't asking; they were asking me.

25 **Q. No. Mr. Scott, the e-mail is from you to**

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1 **Anthony James, Allyn Powell, and Gary Jones.**

2 A. Oh, okay.

3 **Q. And you ask, "Would you be okay with us**
4 **putting it on our website."**

5 A. Oh, okay. Yeah, I'm sorry, I missed that.
6 I thought they asked me.

7 **Q. Okay. So you were asking whether or not it**
8 **would be appropriate to publish on the website, and**
9 **of course in doing that, you would want to only**
10 **publish information that you thought to be accurate,**
11 **right?**

12 A. Information I thought would be accurate and
13 not confidential.

14 **Q. Right. Now, so the letter describes a**
15 **certain status of the unit, and it indicates that**
16 **there are various factors in 2008 that were favorable**
17 **for construction of the units; isn't that right?**

18 A. Yes, sir.

19 **Q. Okay. You agree with those factors that are**
20 **described in this letter today?**

21 MR. LIGHTSEY: Object to the form.

22 THE WITNESS: I don't have actual
23 knowledge of these things, so -- because I didn't
24 develop them, so I don't have actual knowledge of
25 them.

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1 BY MR. CHALLY:

2 Q. But you are familiar with the fact, are you
3 not, that these are factors related to the federal
4 and state regulatory policy environment that were
5 favorable for construction of the units?

6 A. I think -- I think the answer is yes, I was
7 familiar with these factors, you know, at the time,
8 the fact that NRC had gone from one part to another
9 and changed their process. The Base Load Review Act
10 was important, and so I am familiar with these
11 factors.

12 Q. And those are factors that were made
13 manifest in 2008, right?

14 A. Based on this letter, I think you're right.

15 Q. Yeah. Okay. And then you later describe in
16 this letter that actual experience -- 2008 has been a
17 little different than what was projected in 2008;
18 isn't that right?

19 A. Yes, sir.

20 MR. LIGHTSEY: Object to the form.

21 BY MR. CHALLY:

22 Q. And you agree with the bullet points that
23 you described in this letter -- that were described
24 in this letter in 2016?

25 A. As far as I know. I mean, I didn't develop

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1 these things and I didn't look behind them.

2 **Q. So you agree that in 2016, the BLRA had**
3 **provided a stable financial environment for**
4 **construction and an independent study had concluded**
5 **that it, meaning the BLRA, reduces capital cost?**

6 MR. LIGHTSEY: Object to form. Go
7 ahead.

8 THE WITNESS: Based on the
9 information that we had at the time, and based on
10 the mission of ORS at the time, I agree with that
11 statement.

12 BY MR. CHALLY:

13 **Q. And you also agree and knew in 2016 that**
14 **productivity on the project continues to be lower**
15 **than needed to meet construction schedules, correct?**

16 A. Somebody knew it.

17 **Q. Someone affiliated with the ORS knew that,**
18 **right?**

19 A. They put this together, yes, sir.

20 **Q. And they informed you of that fact as of**
21 **2016?**

22 A. Through this letter they would inform me of
23 that fact.

24 **Q. All right. And they conclude that certain**
25 **bullet points within the sentence that begins:**

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1 **"Following your conclusion" -- or these bullet**
2 **points, I should say -- "is the BLRA, as it presently**
3 **exists, remain an essential element to success,"**
4 **right?**

5 A. Based on information we had at the time, I
6 believe that to be true.

7 **Q. And that's because it provides a stable**
8 **environment that ensures financing?**

9 A. That's what it was intended to do based on
10 what we knew at the time and based on ORS's mission
11 at the time.

12 **Q. And the stability that you're talking about**
13 **is -- flows in part from the pre-construction**
14 **prudency determination, correct?**

15 A. I don't disagree with that. I think that's
16 true.

17 **Q. And so you knew that that pre-construction**
18 **prudency determination applied to the extent the**
19 **plant is constructed, correct?**

20 A. Say that again?

21 **Q. Yeah. The pre-prudency determination**
22 **applied in the event that the plant was constructed,**
23 **actually constructed, correct?**

24 A. Constructed and according with the prudent
25 schedule and budget.

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1 **Q. Right. And that pre-prudency determination**
2 **applied so long as the plant was being constructed in**
3 **accordance with the schedule and cost approved to the**
4 **Commission -- approved by the Commission?**

5 A. If it was built in accordance to that
6 schedule and budget, it would be up to someone else.
7 It was being constructed in the compliance with the
8 Base Load Review Order, which may have more in it
9 than just -- if it was being built in compliance with
10 the previous order of the Commission, then unless --
11 my understanding is, and I'm not sure what other
12 people think, but my understanding was that it would
13 take someone else coming in to show that it was
14 imprudent.

15 **Q. And that's true even if the plant was**
16 **abandoned, right?**

17 A. I don't know the answer to that question.

18 **Q. So you were involved in the passage of the**
19 **BLRA, aware of the fact that it provided a stable**
20 **environment for the construction of these base load**
21 **facilities, but you don't have a view as to the**
22 **impact of abandonment on the pre-construction**
23 **prudency determination?**

24 A. I don't have a view because I don't know
25 what the Commission is going to do. I've been asked

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1 that before.

2 **Q. I'm not asking you to project what the**
3 **Commission is going to do. I'm asking you for your**
4 **view, Mr. Scott, as someone who was involved in the**
5 **passage of the BLRA.**

6 **Is it your view, when you were involved in**
7 **passing the BLRA, that abandonment had an impact on**
8 **the utility's ability to recover costs as approved in**
9 **the pre-construction prudence review?**

10 MR. LIGHTSEY: Object to the form.

11 THE WITNESS: I don't know what
12 the abandonment statute actually says, but it
13 was -- I thought it was important, and of course
14 we didn't go into this thing it was going to be
15 abandoned. We went into it thinking, hoping it
16 was going to be built.

17 But what happened in the '80s --
18 and I don't know where -- what I remember
19 happening in the '80s is that there were
20 abandonments, and in some states they didn't get
21 to recover any of the costs. In South Carolina,
22 my memory is that we had plants, units abandoned
23 in South Carolina or in North Carolina that was
24 part of us, but it didn't get, you know,
25 recovery. So they got a recovery of the

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1 investment but not a return. So I thought -- I
2 did think that because of that, in order to
3 attract investors, that the statute as it
4 reads -- and I'm not here reading the statute --
5 was important to the investors, you know, so long
6 as there was -- I mean, you have got other issues
7 going on here that I don't know about. So I
8 don't know what those issues have impact on.

9 But the idea was, if everything
10 was done prudently or according to the original
11 order and the past order, that the abandonment
12 status would take control, is what my
13 understanding would have been. But, again, I
14 wasn't a lawyer on that case, but I did support
15 that.

16 BY MR. CHALLY:

17 **Q. So your understanding in passing the -- and**
18 **being involved in passing the BLRA was that, so long**
19 **as the plant was being constructed on the schedule**
20 **and plans as approved by the Public Service**
21 **Commission, abandonment of that plant wouldn't**
22 **automatically require a refund of the rates approved**
23 **by the Commission?**

24 MR. LIGHTSEY: Object to the form.

25 THE WITNESS: I don't -- I don't

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1 know what you mean by "automatic." But my
2 understanding was that, so long as that plant was
3 built in accordance with the Base Load Review
4 Act, and I think you have got some openness and
5 transparency inherently required in there, that
6 the abandonment itself, my understanding, and I
7 could be wrong, was that it didn't require an
8 automatic refund.

9 BY MR. CHALLY:

10 **Q. All right. Now, I want to talk about your**
11 **responsibilities in the role of Executive Director of**
12 **the ORS.**

13 **Would you agree that you had a duty to**
14 **review, investigation and make an appropriate**
15 **recommendations to the Commission with respect to the**
16 **rates charged or proposed to be charged by any public**
17 **utility?**

18 A. I think it's in the discretion of the
19 Executive Director as to the extent and to what
20 extent he participated or the Office of Regulatory
21 Staff participates. But that part of the duty,
22 subject to the one that says it's up to the Executive
23 Director to determine, even if he participates in a
24 case and to what extent the ORS participates.

25 **Q. Okay. So it's your view that the ORS could**

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1 **decide whether or not it wanted to review,**
2 **investigate and make appropriate recommendations to**
3 **the Commission with respect to the rates charged or**
4 **proposed to be charged by a public utility?**

5 A. It's my -- and, now, if the Commission asks
6 us to do it, we have to do it. But there is a
7 section, and my memory is, that ORS was automatically
8 made a party to the cases for the Commission, but
9 there's a provision in there that says, I believe,
10 that the Executive Director -- unless the Executive
11 Director determines otherwise. So you -- so we
12 weren't required to participate in the cases. Now,
13 we never, I don't think we ever not participated in
14 any rate case.

15 **Q. Did you fail to participate in proceedings**
16 **under the BLRA related to the V.C. Summer Nuclear**
17 **Project?**

18 A. I don't -- did we elect not to participate?
19 No, sir.

20 **Q. You did participate in those?**

21 A. Yes, sir.

22 **Q. And you carried out this duty to review,**
23 **investigate and make appropriate recommendations to**
24 **the Commission?**

25 A. Based on the information we had at the time,

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1 and under the mission that we had at the time, I
2 think we did that.

3 **Q. So specifically when it came to the V.C.**
4 **Summer Nuclear Project, ORS's duties included**
5 **conducting ongoing monitoring of the construction of**
6 **the plants and expenditure of capital for the**
7 **project; isn't that right?**

8 A. I believe that's true.

9 **Q. And the ORS's activities primarily focused**
10 **on the ability to adhere to the approved construction**
11 **schedule and the approved capital cost estimates;**
12 **wouldn't that be right?**

13 A. I don't know that it's primary.

14 **Q. But that was certainly a part of the ORS's**
15 **activities, correct?**

16 A. I would think so. I'm not looking at the
17 statute, but I would think.

18 **Q. So there was both an oversight role, so the**
19 **ORS would have this information, know it --**

20 A. I don't think oversight's used. I thought
21 monitoring was used.

22 **Q. Well, we just -- I thought we had agreed**
23 **that -- we described the ORS's oversight activities**
24 **has focused on the ability to adhere --**

25 A. I would --

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1 **Q. -- to the approved construction schedule and**
2 **the approved capital cost estimate.**

3 A. I missed a word. I think the word is
4 monitor.

5 **Q. So there was a monitoring function for the**
6 **ORS, and then there was also a reporting function for**
7 **the ORS, right; the ORS had to report certain**
8 **information to the Commission?**

9 A. We didn't have a reporting requirement.

10 **Q. It is your testimony that you didn't have to**
11 **tell the Commission anything that you learned in your**
12 **monitoring role of the project?**

13 A. I didn't say that.

14 **Q. Then you had a reporting responsibility,**
15 **correct?**

16 A. The utility had to -- quarterly reports.
17 Our responsibility, I thought, was in the cases that
18 came before the Commission. We didn't have a regular
19 reporting requirement, I don't think.

20 **Q. And is it your view that you didn't have any**
21 **responsibility to report to the Commission regarding**
22 **the results of your monitoring of the project?**

23 A. I don't think we had to file a quarterly
24 report, but I think in the cases that we certainly
25 would want to provide the Commission with our

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1 recommendation based on what we knew. I don't think
2 we had necessarily a duty to report that Modular A
3 was late or something like that, I just don't know.

4 **Q. So you -- I understand you didn't have --**
5 **you believe you didn't have a quarterly reporting**
6 **function -- we'll get to that in a second. But is it**
7 **your view you had no specific reporting obligations**
8 **to the Commission related to the nuclear project?**

9 A. I don't agree that we had "no." I don't
10 know what it was. But I don't think there is
11 anything in the Base Load Review Act that has a
12 reporting requirement. Now, I may be wrong, but, you
13 know, the utility has the responsibility to file a --
14 I think it's a quarterly report. I don't think there
15 is any duty under the statute for ORS to file such a
16 report, but I'm not saying there was no duty.

17 **Q. The ORS had a duty to make appropriate**
18 **recommendations to the Commission with respect to**
19 **rates charged or proposed to be charged by any public**
20 **utility, right?**

21 A. And what section is that under?

22 **Q. 58.450.A-1.**

23 A. And that's in rate cases? That's not under
24 the Base Load Review Act.

25 **Q. That's -- the section isn't under the Base**

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1 **Load Review Act, but I'm asking whether or not you**
2 **had the -- whether the ORS had the duty to make**
3 **appropriate recommendations to the Commission with**
4 **respect to rates charged or proposed to be charged by**
5 **any public utility including under the Base Load**
6 **Review Act.**

7 A. I can't disagree with that. I'm not reading
8 the thing and I can't disagree that we had some duty
9 there.

10 **Q. So you agree that you had some duty under**
11 **that statute related to the project?**

12 A. Yeah, I think -- I think we had -- I don't
13 know what the duty was, but I know we didn't have a
14 reporting duty. But I can't say you had no duty. I
15 mean, I just can't say that.

16 **Q. So you took those duties, including even**
17 **those reporting duties, seriously, right?**

18 MR. LIGHTSEY: Object to the form.

19 THE WITNESS: I don't know what
20 reporting duties you're referring to.

21 BY MR. CHALLY:

22 **Q. Just those duties that we just agreed to,**
23 **Mr. Scott. You said you had some reporting**
24 **responsibility to make appropriate recommendations to**
25 **the Commission.**

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1 MR. LIGHTSEY: Object to the form.

2 THE WITNESS: I thought I said I
3 can't say that we didn't have any. I just don't
4 know what you're getting at.

5 BY MR. CHALLY:

6 Q. You said you can't say we didn't have any.
7 There's two negatives there. So does that mean you
8 agree you had some duty to make appropriate
9 recommendations to the Commission?

10 A. In the contested case proceedings, I think
11 we had a duty to make recommendations to the
12 Commission.

13 Q. We're talking about the project, talking
14 about the BLRA.

15 A. I don't know of any reporting duty. I don't
16 know of any reporting duty. And that's not to say we
17 didn't have any. I don't know of any reporting duty
18 that the ORS had outside of the contested case
19 provision.

20 Q. So is it your testimony that the ORS had no
21 responsibility to make appropriate recommendations to
22 the Commission with respect to rates charged or
23 proposed to be charged by any public utility,
24 including under the BLRA?

25 A. We're not communicating. What I'm saying is

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1 that there was -- I don't think there was any duty,
2 any reporting requirement for ORS to the PSC outside
3 of the contested rate cases similar to the one that
4 SCE&G had. I don't mean to frustrate you.

5 **Q. No, you're not.**

6 **Was it -- did the ORS have a responsibility**
7 **to make appropriate recommendations to the Commission**
8 **with respect to issues associated with the project?**

9 A. In the contested cases, I think that's
10 correct.

11 **Q. When you -- when you're referring to**
12 **"contested cases," what exactly are you referring to?**

13 A. I'm talking about the modification cases. I
14 don't -- I think in a revised rate case, which may
15 not be considered -- I don't know whether they're
16 consider contested cases or not, but I think we had
17 the duty in those.

18 **Q. So in the initial application for a Base**
19 **Load Review Order, ORS had that duty, right?**

20 A. We assumed that duty whether we had it or
21 not.

22 **Q. In the revised rates proceedings, the ORS**
23 **assumed that duty?**

24 A. Yes.

25 **Q. And in the proceedings that sought**

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1 **modifications to the schedule and costs as approved**
2 **by the Commission related to the project, the ORS**
3 **assumed that duty?**

4 A. Yeah, I think we did, yes, sir. Based on --
5 all this is based on information we had at the time
6 and the mission statement we had at the time.

7 **Q. And so in light of ORS's assumption of those**
8 **duties, you directed the ORS staff to monitor the**
9 **project, right?**

10 A. I don't remember actually directly
11 monitoring the project but, I mean, that was the
12 whole idea.

13 **Q. Right. And the ORS hired an expert in**
14 **nuclear construction to assist in evaluating the**
15 **project, right?**

16 A. I think that we hired Mister -- we
17 originally hired a guy named Chris, I think, but then
18 we hired Gary Jones who I would consider an expert.

19 **Q. And you yourself were involved in collecting**
20 **information related to the project, right?**

21 A. Not me, no, sir. I got information from the
22 staff, but I didn't go out there and monitor or
23 review documents.

24 **Q. I'm not asking whether you reviewed and**
25 **monitored. I'm asking whether or not you were**

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1 involved in collecting information related to the
2 project.

3 A. I wasn't involved in -- I don't think so.

4 Q. Didn't you have regular meetings with SCE&G
5 employees that involved discussion of issues
6 associated with the project?

7 A. I had -- I had some meetings with SCE&G,
8 exactly, yes.

9 Q. And sometimes that involved discussion of
10 issues associated with the project, right?

11 A. Right.

12 Q. And that was part of your discharging these
13 duties that you assumed, right?

14 A. I would think so.

15 Q. And in light of the ORS's authority, it had
16 the ability to ask SCE&G for additional information
17 so that it could review, investigate and make
18 appropriate recommendations to the Commission when it
19 came to project; isn't that right?

20 A. We would have to know the information
21 existed to ask for it; but, yes, if we knew the
22 information existed, yes.

23 Q. And in fact, that was not only an ability
24 but that was a responsibility of the ORS; was it not?

25 MR. LIGHTSEY: Object to the form.

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1 THE WITNESS: I mean, you would
2 have to know it existed. I mean, I would think
3 if we knew something existed that was pertinent
4 and we needed, I would think we had the
5 responsibility to ask for it.

6 BY MR. CHALLY:

7 Q. Ask for it and then to ultimately furnish to
8 the Commission what you thought was necessary for the
9 Commission to evaluate, right?

10 A. In the -- in the contested case hearings, we
11 had a responsibility to do that, we did have.

12 Q. Are you, other than within these contested
13 case proceedings, are you aware of any instance in
14 which you or the ORS failed in this responsibility?

15 A. Not based on what we knew at the time.

16 Q. Now, there was a team that worked underneath
17 you to provide oversight for V.C. Summer, right?

18 A. To monitor V.C. Summer.

19 Q. Right, and there was Anthony James; isn't
20 that right?

21 A. Anthony James was one.

22 Q. What did you understand Anthony James'
23 responsibilities to include as it related to the
24 project?

25 A. He was Director of the New Nuclear

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1 Development. His responsibility -- there was two
2 basically, you know, Anthony's responsibility was to
3 work with Gary Jones and Gene and Allyn Powell to
4 monitor the construction.

5 **Q. And then you mentioned, Ms. Allyn Powell.**

6 A. Yes.

7 **Q. How would you generally describe**
8 **Ms. Powell's responsibilities?**

9 A. I think she was called maybe a Program
10 Manager or something. But she and Gene had more
11 day-to-day interaction.

12 **Q. You mentioned Gene; that's Gene Soult,**
13 **right?**

14 A. Yes, sir.

15 **Q. How would you describe Gene Soult's**
16 **responsibilities as it related to the project?**

17 A. I didn't directly supervise him so I don't
18 know what his day-to-day responsibility was. I do
19 know that he was out there two or three days a week,
20 I think, but I don't -- I didn't directly supervise
21 him and I didn't draw up his position description, so
22 to speak.

23 **Q. We have already talked about Mr. Jones, Gary**
24 **Jones. What did you understand Mr. Jones'**
25 **responsibilities to be as it related to the project?**

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1 A. Again, I didn't draw up that contract, but
2 to me, he was our expert to -- in monitoring the
3 project.

4 **Q. All right. Did you direct these individuals**
5 **to provide you with information they learned related**
6 **to the project?**

7 A. I don't think I ever directed them. What we
8 did was, you know, when they provided me some
9 information on a monthly basis, I mean, they knew to
10 do -- I think they knew to do that.

11 **Q. That was part of their responsibility?**

12 A. I would think so. I didn't draw up their
13 position --

14 **Q. And you wanted them to provide you with**
15 **accurate and complete information?**

16 A. Yes, I would think so.

17 **Q. And you would have expected them to convey**
18 **to you anything that they thought would be material;**
19 **isn't that right?**

20 A. I would think they would.

21 **Q. Was there any information that you ever told**
22 **them to withhold from you?**

23 A. No, sir.

24 **Q. All right. Are you aware --**

25 A. I don't think I did. I don't think I would

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1 ask them to withhold information from me.

2 **Q. Are you aware today of these personnel**
3 **withholding any information from you related to the**
4 **project?**

5 A. I don't think so.

6 **Q. All right.**

7 A. I don't have any memory of it.

8 **Q. How would this information that they were to**
9 **provide to you be communicated to you? You said**
10 **monthly; is that right?**

11 A. Well, generally speaking, I think you got
12 some letters there. We would update people with a
13 review committee letter, and they would provide the
14 information in the form of a review committee letter.

15 Now, there was a time that we met when Gary
16 was here, we met monthly, and met out at the Co-ops,
17 with the Co-ops, and I don't know whether Central was
18 there or not, but where they would review what they
19 found and then they would write it up for me.

20 **Q. So you had monthly meetings with Gary Jones;**
21 **is that right?**

22 A. Well, not from the very beginning. But in
23 the 2016 era, I think that that would be an accurate
24 statement; that generally we met monthly. Because he
25 came in monthly. He did stuff from Chicago, but he

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1 actually came to town monthly.

2 **Q. You also received written summaries that**
3 **were prepared by Gary Jones, for instance?**

4 A. Yeah, those were the -- those summaries was
5 what was in the review committee letters.

6 **Q. Did you ever, at any point, intentionally**
7 **delete information related to the project?**

8 A. When we settled the 2015 case, we didn't put
9 Gary Jones up. We just used the Director, because we
10 had a settlement in that case. But I don't think --
11 other than that, I don't think that -- tell me your
12 question again.

13 **Q. Did you ever intentionally delete**
14 **information you had related to the project?**

15 A. Intentionally deleting -- you're talking
16 about in an e-mail or something?

17 **Q. E-mail, letters, hard copy documents, any**
18 **information or data that you had, did you ever**
19 **intentionally do that?**

20 A. I'm sure I probably did.

21 **Q. Okay. What about reports you received**
22 **regarding the project status, do you recall deleting**
23 **any of that?**

24 A. I think all those are there.

25 **Q. So you're --**

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1 A. I could have, I mean, I may have.

2 **Q. Do you recall an instance in which you**
3 **decided that you were going to intentionally delete**
4 **reports you received regarding the project status?**

5 A. Delete reports -- I don't think so.

6 **Q. Isn't it true that the ORS believes its**
7 **subject to FOIA?**

8 A. Yes, sir.

9 **Q. Did you ever take steps to avoid having**
10 **certain documents related to the project in your**
11 **possession so that you could avoid obligations under**
12 **FOIA?**

13 A. Yes, sir, I think we did.

14 **Q. What steps did you take in that regard?**

15 A. Well, just were careful about notes we took
16 in meetings. We were -- there was a confidential
17 locker that we didn't have access to except through
18 them or something like that but --

19 **Q. And that was put in place in part so that**
20 **the ORS could avoid obligations it had under FOIA?**

21 A. In order to comply with SCE&G's requirement
22 that it remain confidential.

23 **Q. So are you -- did you take steps to avoid**
24 **obligations the ORS had under FOIA with respect to**
25 **letters that you sent to SCE&G?**

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1 A. Yes, sir.

2 **Q. So how did you do that?**

3 A. Well, we didn't -- we didn't -- the ones
4 that were sent to SCE&G, my understanding with Byron
5 was that we couldn't keep copies of it; they would
6 have copies.

7 **Q. What about your communications with the**
8 **Governor related to the project?**

9 A. I don't know that I had a direct
10 conversation with the Governor.

11 **Q. Did you ever send a letter to the Governor**
12 **of South Carolina related to status of the project?**

13 A. Yes, sir.

14 **Q. All right.**

15 A. Not to the Governor but to his staff.

16 **Q. To whom?**

17 A. Well, if you're talking about Governor
18 McMaster, then it would go to Ms. Taylor and then
19 perhaps Mr. Limehouse.

20 **Q. What about Governor Haley?**

21 A. Under Governor Haley, there was a time I
22 picked up -- and this wasn't continuous, but I picked
23 up sending it to her Chief of Staff, and her Chief
24 Counsel, and maybe the Deputy Chief Counsel.

25 **Q. How many letters did you send?**

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1 A. I generally sent them monthly, but there was
2 times when, particularly the 2016 era, that I sent
3 maybe more than once a month. But generally they
4 were monthly.

5 **Q. Where are those letters now?**

6 A. In the files of the Commission, I would
7 suppose.

8 **Q. Did you understand that those documents**
9 **still exist are in the files of Office of Regulatory**
10 **Staff?**

11 A. Yeah, I don't think the document that
12 exists -- what I think the administrative people did
13 was they did the list merge, so my understanding is
14 there's copies of those letters in the files of the
15 ORS now to the review committee, yes, sir.

16 MR. CHALLY: Let's switch the tape
17 real quick. I'm not ready for a lunch break, but
18 let's switch the tape.

19 THE VIDEOGRAPHER: This concludes
20 media number one in the video deposition of Dukes
21 Scott. The time is 12:07. We are now off the
22 record.

23 (A recess was taken.)

24 THE VIDEOGRAPHER: Back on the
25 record. Today's date is November 7, 2018. The

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1 time is 12:10. This is the beginning of media
2 number two in the video deposition of Dukes
3 Scott.

4 BY MR. CHALLY:

5 **Q. Mr. Scott, when we broke, you were**
6 **discussing what I understood to be certain monthly**
7 **letters that you sent to members of the Governor's**
8 **staff, either Governor McMaster or Governor Haley**
9 **regarding the project.**

10 A. Yes, sir. And I don't think I started it
11 from the very beginning of Governor Haley's time, but
12 sometime during that her race -- not race -- but her
13 tenure, I started sending it, probably sometime after
14 2014, maybe, when I got to know them through the ice
15 storm, and I said I sent a letter to the PERC and
16 others, I sent it to y'all, and then continuously --
17 see, Ms. Taylor was also her Chief Counsel, and so I
18 just continued sending to Ms. Taylor.

19 **Q. So are these the same letters that you also**
20 **sent to the PERC?**

21 A. Yes, sir.

22 **Q. You sent no separate communications to**
23 **either Governor Haley, anyone on her staff, Governor**
24 **McMaster, or anyone on his staff, related to the**
25 **project?**

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1 A. No other -- you know, "no" and "never" and
2 "ever" are just -- those are tricky words. I don't
3 have any recollection of a special letter to the
4 Governor's staff over the PERC staff, but that
5 doesn't mean there isn't one out there; I just don't
6 have any recollection of it.

7 Now, there was, after the abandonment, there
8 was an inquiry about what was necessary to preserve,
9 I think is the word, the units. And Ms. Powell, I
10 don't think she drew the letter for me, I think she
11 actually communicated with his outside counsel on
12 those issues. I don't know whether -- I don't even
13 know -- I don't know whether they put them in the
14 PERC letters or not, they might have. But I don't
15 recall having separate communication, separate -- the
16 only separate communications, as I think through
17 this, is in 2017 I visited with Ms. Taylor and
18 Mr. Limehouse and was telling them about the project
19 and the status of the project, and at that point in
20 time, the bankruptcy had happened and I was telling
21 them what ORS was -- not ORS -- what SCE&G was
22 considering as far as the project itself was
23 concerned. So that was a separate communication with
24 the Governor's staff. I was actually over there on
25 another issue and said, I need to mention this to you

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1 while I'm here.

2 Q. Okay. So other than this one communication
3 and the PERC letters, you don't recall sending a
4 single written communication to Governor Haley,
5 Governor McMaster, or any member of their staff
6 regarding the project?

7 A. I don't remember, but if you have got one, I
8 would love to see it.

9 Q. What about communications with Santee Cooper
10 related to the project? Did you have written
11 communication with Santee Cooper related to the
12 project?

13 A. I don't think there is going to be any
14 communications from me to Santee Cooper about the
15 project.

16 Q. I didn't ask you whether there -- did you
17 ever have communications with Santee Cooper related
18 to the project, written communications?

19 A. I don't think so.

20 Q. Did you ever take steps to avoid having
21 documents related to the project in your
22 possession -- let me ask that question again.

23 Did you ever take steps to avoid having
24 communications with Santee Cooper in your possession
25 so that you could avoid obligations under FOIA?

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1 A. No, sir. I don't think I had any written
2 communication.

3 **Q. What about written communications with the**
4 **Electric Cooperatives of South Carolina?**

5 A. Tell me what the -- what's the question
6 about those communications?

7 MR. LIGHTSEY: Object to the form.

8 BY MR. CHALLY:

9 **Q. Yeah. Sorry. Did you have written**
10 **communications with the Electric Cooperatives of**
11 **South Carolina related to the status of the project?**

12 A. The -- yes, I think I did.

13 **Q. Did you ever take -- well, describe**
14 **generally those communications.**

15 A. Well, what I -- the same summary that's in
16 PERC letters, there was a time period in which, and
17 it would have been probably in the 2016 time frame,
18 that I would furnish that to the Cooperatives. Now,
19 it wouldn't be a letter to the Cooperatives, it would
20 just be a cut, you know, cut-and-paste-type thing
21 that I would send to them.

22 **Q. Did you ever take steps to avoid having**
23 **those documents in your possession so that you could**
24 **avoid obligations under FOIA?**

25 A. Those documents are still there. There's

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1 not going to be one addressed to Mr. Couick any more
2 than there's going to be one addressed to a member of
3 PERC, but the document itself is still there.

4 **Q. Go ahead.**

5 A. I just can't remember. It wasn't from the
6 beginning to the end, but, yes, I furnished those
7 things to Mr. Couick.

8 **Q. So you had written communications with Mike**
9 **Couick related to the status of the project?**

10 A. I think the answer is yes, I sent him this
11 stuff, and I don't know that you're going to find a
12 letter to it.

13 **Q. Did you ever take steps to avoid having**
14 **those written communications with Mike Couick in your**
15 **possession so that you could avoid obligations under**
16 **FOIA?**

17 A. I don't think so.

18 **Q. Is it fair to say that you attempted to have**
19 **the ORS staff collect and review all of the**
20 **information that you thought might be important to**
21 **the status of the project?**

22 A. I mean, ask me the question again.

23 (The record was read as requested.)

24 A. I would think that's what they would be
25 doing, but I don't know that you're going to find

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1 anything from me direct to them verbatim that.

2 Q. And the ORS staff in fact had access to
3 various information about the project; isn't that
4 right?

5 A. Yeah, they must have.

6 Q. And you are aware of the fact that the ORS
7 attended meetings on-site?

8 A. Yes.

9 Q. And that the ORS staff received reports from
10 the consortium member?

11 A. I don't know about the reports from the
12 consortium members.

13 Q. We'll come back to that in a second.

14 But you're certainly aware that the ORS
15 staff received reports from SCE&G?

16 A. They got the same quarterly report that they
17 filed with the Commission.

18 Q. And the ORS staff issued formal requests for
19 documents; isn't that right?

20 A. I would think so.

21 Q. The ORS staff actually issued formal
22 Interrogatories; did they not?

23 A. If they sent Interrogatories as such, that
24 must have been after I was gone.

25 Q. Okay. Well, requests for information in

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1 narrative form rather than documents; you're aware
2 that they did that, correct?

3 A. I don't know.

4 Q. We'll talk about some of those later today.

5 Are you aware the ORS staff had regular
6 meetings with SCE&G personnel to gain a better
7 understanding of the status of the project?

8 A. Please say that again?

9 Q. Are you aware that the ORS staff had regular
10 meetings with SCE&G personnel to gain a better
11 understanding of the status of the project?

12 A. I'm not aware of a specific meetings but I
13 would think so.

14 Q. And you yourself were involved in some of
15 these efforts to collect information related to the
16 project, right?

17 A. Based on what you're saying, yes.

18 Q. And you yourself received reports from SCE&G
19 personnel regarding the status of the project, right?

20 A. I don't remember getting reports from SCE&G.
21 That's not to say I didn't, but I don't remember
22 getting written reports from SCE&G personally.

23 Q. But you received information from SCE&G
24 orally and in writing regarding the status of the
25 project?

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1 A. I know I received it orally and maybe in
2 writing.

3 Q. Isn't it true that you had access to some of
4 **SCE&G' and SCANA's most senior executives --**

5 A. Yes, sir.

6 Q. -- to discuss issues related to the project?

7 A. Yes.

8 Q. You regularly met with, for instance, the
9 **CEO of SCE&G and SCANA, Kevin Marsh?**

10 A. Not throughout the whole project. We
11 started meeting regularly, I would call it regularly
12 but not every month, in 2017. But I don't remember
13 regular meetings, but there were other meetings.

14 Q. You started -- I'm going to make sure we got
15 that date right. You said you started having regular
16 meetings with Mr. Marsh in 2017?

17 A. That's my memory.

18 Q. But you had meetings with Mr. Marsh prior to
19 that time regarding the status of the project?

20 A. Oh, yes, yes.

21 Q. Did you have a regular interval in which you
22 had those meetings?

23 A. No. No, sir, I didn't have.

24 Q. Now, when you decided you needed a meeting,
25 you would contact Mr. Marsh and request that --

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1 A. It would generally be the other way around;
2 they decided the meeting.

3 **Q. Did you ever request a meeting of Mr. Marsh**
4 **that was denied?**

5 A. Yes, I think the answer to that is yes.

6 **Q. When?**

7 A. Okay. In 2017, and I don't know whether it
8 was Mr. Marsh or not, but in 2017, after the -- and
9 this was after the Toshiba issue in December of 2016,
10 I discovered that there was a meeting with -- between
11 Westinghouse, I believe it was, and SCANA people, and
12 I requested to have -- I don't know whether I wanted
13 me personally to be there because I don't know that
14 that would have done any good, but I requested that
15 ORS have a representative there, and it was denied.

16 **Q. Any other meeting that you requested to have**
17 **with Kevin Marsh that was denied?**

18 A. No, sir. He was very accessible.

19 **Q. You spoke to Kenny Jackson regarding the**
20 **status of the project somewhat regularly, correct?**

21 A. Yes, I mean, we spoken a lot.

22 **Q. And same for Byron Hinson?**

23 A. Yes.

24 **Q. In fact, you met with some of those**
25 **individuals that I just described almost weekly,**

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1 **right?**

2 A. Yes. Not necessarily about the project.

3 **Q. Yeah. You had a weekly session scheduled**
4 **for -- with Mr. Jackson and Mr. Hinson for drinks,**
5 **didn't you?**

6 A. Yes, sir.

7 **Q. And that also included SCE&G outside**
8 **counsel; did it not?**

9 A. Yes.

10 **Q. And those outside counsel were Mitch**
11 **Willoughby and Belton Zeigler?**

12 A. Yes, sir. Now everybody wasn't there every
13 Thursday and neither were we, but we did get
14 together.

15 **Q. Okay.**

16 A. It wasn't for the purpose to discuss the
17 Summer project.

18 (Exhibit No. 4 was marked for
19 identification.)

20 **Q. Okay. Mr. Scott, I have handed you what I**
21 **have marked as Exhibit 4 to your deposition. It's an**
22 **e-mail from Mitch Willoughby to a series of people,**
23 **including you.**

24 A. Yes, sir.

25 **Q. I just want to make sure I've got the**

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1 context. Were the recipients of this e-mail, Nanette
2 Edwards, Dukes Scott, Byron Hinson, Kenny Jackson,
3 Belton Zeigler, and then the sender of this e-mail,
4 Mitch Willoughby, the regular invitees to your weekly
5 meeting for drinks?

6 A. For drinks, yes, sir. They weren't for any
7 particular business purpose. We bought our own
8 drinks.

9 Q. I understand. But you were able to meet
10 regularly, and this was exclusive to ORS staff and
11 SCE&G representatives; isn't that right?

12 A. Oh, that would be -- that would be, yes.

13 Q. So you had the opportunity to discuss issues
14 related to the project if you decided you needed to
15 discuss those issues?

16 A. Well, that wasn't the purpose of the
17 meeting. I try not to do that over drinks, so that
18 wouldn't be something I would generally do.

19 Q. Are you familiar with the fact that the ORS
20 interacted with the consortium at least on a
21 quarterly basis?

22 A. I mean, I would accept you telling me that.
23 I don't know that.

24 Q. You don't have any reason to dispute the
25 fact that they had those quarterly meetings?

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1 A. I don't have any reason to dispute it.

2 **Q. You just don't recall whether or not they**
3 **had those meetings?**

4 A. I don't know that I was ever told they met
5 for quarterly meetings.

6 **Q. Would you have expected them to have those**
7 **meetings?**

8 A. I would expect them to do what they thought
9 was necessary.

10 **Q. Do you recall ORS personnel ever reporting**
11 **to you about what they learned at these meetings with**
12 **the consortium?**

13 A. I would imagine. I mean, I would think that
14 some of the stuff in the letters might have come from
15 there but not specifically.

16 **Q. So do you recall the ORS staff communicating**
17 **to you issues related to, for instance, performance**
18 **factors, productivity factors associated with the**
19 **project?**

20 A. I remember them talking about the
21 performance factors, yes, sir.

22 **Q. Did you yourself receive reports on**
23 **productivity or performance factors on a monthly**
24 **basis?**

25 A. Not directly to me. Now, it may be in those

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1 review committee letters which came to me, but not
2 separately, no, sir.

3 **Q. But you would have expected the ORS staff to**
4 **provide you with information related to productivity**
5 **factors if they thought it significant, correct?**

6 A. And they did report, not necessarily in a
7 report, but they --

8 **Q. Did you get information regarding the**
9 **percentage completion on the project at various**
10 **points in time?**

11 A. I saw information regarding percentages.

12 **Q. Is that something you recall seeing on a**
13 **regular basis?**

14 A. Not like weekly or monthly, but mainly in
15 the modification dockets I think it came up.

16 **Q. Do you recall receiving information related**
17 **to indirect to direct craft ratios for the project?**

18 A. There might be something in the review
19 committee letters about craft versus others, but I
20 don't recall what it is.

21 **Q. What about non-field manual to direct craft,**
22 **is that a ratio that you recall receiving information**
23 **on?**

24 A. Sir?

25 **Q. Non-field manual to direct craft.**

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1 A. I don't know what that is.

2 MR. CHALLY: Okay. Did you want
3 to take a break for lunch?

4 MR. LIGHTSEY: Sure.

5 THE VIDEOGRAPHER: Off the record
6 at 12:25.

7 (A recess was taken.)

8 THE VIDEOGRAPHER: Back on the
9 record 13:29.

10 BY MR. CHALLY:

11 **Q. Mr. Scott, ORS was aware in early 2015 that**
12 **SCE&G was considering conducting an independent**
13 **assessment of the project; were they not?**

14 A. I don't know.

15 **Q. You said that you saw Interrogatory**
16 **responses that the ORS provided in the context of the**
17 **PSC proceedings, correct?**

18 A. No, sir.

19 MR. LIGHTSEY: Object to the form.

20 MR. BELL: Object to the form of
21 the question.

22 THE WITNESS: The answer is "no
23 sir."

24 BY MR. CHALLY:

25 **Q. You said that you provided input to those?**

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1 A. Yes, sir, but I didn't see the final
2 responses.

3 (Exhibit No. 5 was marked for
4 identification.)

5 **Q. Okay. I've handed you what I have marked as**
6 **Exhibit 5 to your deposition, Mr. Scott.**

7 A. Yes, sir.

8 **Q. Can you flip to page nine.**

9 A. Yes, sir.

10 **Q. Before I ask a specific question: Is your**
11 **testimony that you have never seen these**
12 **Interrogatory Responses before?**

13 A. I have not seen the final Responses to the
14 Interrogatories.

15 **Q. Were you -- was the substance of**
16 **Interrogatory Responses regarding Bechtel described**
17 **to you?**

18 A. No, sir.

19 **Q. Look with me to page --**

20 A. Sir?

21 **Q. Look with me to page nine.**

22 A. Okay.

23 **Q. Response to Interrogatory 1-1. Do you see**
24 **that?**

25 A. Yes, sir.

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1 Q. The second sentence says, "Subject to and
2 without waiver of the foregoing objections, ORS
3 states that in early 2015, Gary Jones learned from
4 Skip Smith that SCE&G was considering candidates to
5 perform an independent overall assessment."

6 A. Yes, sir.

7 Q. Do you see that?

8 A. Yes, sir.

9 Q. Do you have any reason to dispute that?

10 A. No, sir.

11 Q. Is it your testimony that Gary Jones didn't
12 inform you of what he learned from Skip Smith?

13 A. I don't -- I don't recall that he did.

14 Q. Do you consider the fact that SCE&G was
15 considering candidates to perform an independent
16 overall assessment of the project an important fact
17 that you would have expected to know?

18 MR. LIGHTSEY: Object to the form.

19 THE WITNESS: And I don't know the
20 answer. I don't -- I don't know.

21 BY MR. CHALLY:

22 Q. Well, at the time that Mr. Jones was
23 informed, as is described here by Skip Smith, you
24 were the Executive Director of the ORS?

25 A. Yes.

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1 **Q. Is that a fact that you would have wanted to**
2 **know?**

3 MR. LIGHTSEY: Object to the form.

4 THE WITNESS: I would leave it up
5 to Mr. Jones to determine how important it was
6 for him to tell me, but I don't think that I knew
7 about this.

8 BY MR. CHALLY:

9 **Q. Okay. So sitting --**

10 A. It might be one of those review committee
11 letters that I signed, so I am very careful about
12 trying to say that. I don't think it is.

13 **Q. So sitting here today, the fact that SCE&G**
14 **was considering candidates to perform an independent**
15 **overall assessment of the project is not of**
16 **significance to you; is that right?**

17 A. I'm not saying that. I'm saying the
18 significance of that would be up to Mr. Jones; he
19 would know the significance of it.

20 **Q. But to you, personally, it's not a**
21 **significant fact?**

22 A. I don't know whether -- I mean, it could
23 have -- I mean, I would leave it up to Mr. Jones to
24 determine whether it's something that I would think
25 was significant. But I think the answer to your

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1 question is: It does seem like that's a significant
2 fact.

3 **Q. Okay. It seems like it's a significant fact**
4 **and you would have expected Mr. Jones to convey to**
5 **you significant facts regarding the project; is that**
6 **right?**

7 A. I would expect him to convey to me what he
8 considers significant enough to tell me at his
9 discretion.

10 **Q. So either you would have -- either Mr. Jones**
11 **conveyed this fact to you and now don't remember that**
12 **he did, or you believe Mr. Jones concluded this fact**
13 **was insignificant at the time; is that right?**

14 MR. LIGHTSEY: Object to the from.

15 THE WITNESS: I don't think he
16 thought it was insignificant. I think he thought
17 it was very significant. Whether he -- whether
18 he thought -- whether he thought to tell me about
19 it, I don't know. I don't think that he did.

20 BY MR. CHALLY:

21 **Q. So you don't think Mr. Jones told you of**
22 **this?**

23 A. I don't think so.

24 **Q. You think Mr. Jones believed this was**
25 **significant?**

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1 A. I don't know. You can ask Mr. Jones that.

2 **Q. So sitting here today in 2018, knowing that**
3 **Mr. Jones was informed that SCE&G was considering**
4 **candidates to perform an independent overall**
5 **assessment, are you in any way bothered by the fact**
6 **that you're not sure if Mr. Jones described this to**
7 **you?**

8 A. I'm not bothered by it. I mean, I have
9 complete faith in Mr. Jones. And he may have told
10 me. I don't know. Y'all have taken his deposition
11 and I don't know what he's told you. He may have
12 told me about it, but I don't recall that he did.

13 **Q. It just wasn't significant enough to**
14 **register to you?**

15 A. I wouldn't say that, because there's a lot
16 of things significant enough to register to me that I
17 forget.

18 **Q. All right. Are you familiar with the fact**
19 **that SCE&G asked Gary Jones who SCE&G should use to**
20 **perform the assessment that Mr. Jones is talking**
21 **about?**

22 A. I don't think so.

23 **Q. Are you familiar with the fact that**
24 **Mr. Jones suggested, among two other entities,**
25 **Bechtel?**

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1 A. No, sir.

2 Q. You're not familiar with that fact?

3 A. No, sir.

4 Q. Did Mister -- are you sure whether or not
5 **Mr. Jones ever told you that fact?**

6 A. I don't recall that he told me that, that
7 fact.

8 Q. Do you view that Mr. Jones suggested to
9 **SCE&G, among others, Bechtel as a candidate to**
10 **perform this assessment as a significant fact today?**

11 A. I would think -- right, I think that would
12 be a significant fact, but there is a lot of -- never
13 mind, go ahead.

14 Q. Okay. So you think that's a significant
15 **fact, but you can't recall Mr. Jones telling you that**
16 **fact in 2016?**

17 A. No, sir.

18 Q. Do you have any reason to doubt that he did?

19 A. I don't have any reason to --

20 MR. LIGHTSEY: Object to the form.

21 THE WITNESS: I don't have any
22 reason either way to doubt it or not doubt it.

23 BY MR. CHALLY:

24 Q. Do you recall Mr. Jones ever telling you
25 **about a conversation regarding SCE&G's intent to**

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1 **consider candidates perform an independent assessment**
2 **of the project?**

3 A. Please say that again?

4 (The record was read as requested.)

5 A. No, sir, I don't recall any.

6 **Q. Sitting here today, are you aware of**
7 **Mr. Jones failing to provide you with material**
8 **information related to the project?**

9 MR. LIGHTSEY: Object to the form.

10 THE WITNESS: No, sir.

11 BY MR. CHALLY:

12 **Q. All right. Now, you also understand, do you**
13 **not, Mr. Scott, that Gene Soult became aware in**
14 **October of 2015 that Bechtel had in fact performed an**
15 **assessment of the project?**

16 MR. LIGHTSEY: Object to the form.

17 THE WITNESS: I don't know when --

18 I don't know when Mr. Soult learned of that but I
19 think Mr. Soult did learn about that.

20 BY MR. CHALLY:

21 **Q. Even prior to that time, are you familiar**
22 **with the fact that Gene Soult was informed that**
23 **SCE&G's legal office was handling an external review**
24 **of the project?**

25 A. Prior to what time?

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1 **Q. Prior to October of 2015.**

2 **A. I don't think I knew that.**

3 **Q. And you said that you are aware that**
4 **Mr. Soult became informed that Bechtel had in fact**
5 **performed an assessment of the project; is that**
6 **right?**

7 **A. I'm aware of it today. I wasn't aware of it**
8 **then, if you're talking about 2015.**

9 **Q. So you see the sentence in this**
10 **Interrogatory Response, "On October 15, 2015,**
11 **Mr. Soult attended a plan-of-the-day session in which**
12 **an unknown individual made comments that indicated he**
13 **had participated in an assessment of the project."**

14 **A. I read that now, yes, sir.**

15 **Q. And the next sentence, "As the individual**
16 **finished his statement, he and another unknown**
17 **individual picked up hats which were labeled with**
18 **Bechtel."**

19 **And then the paragraph concludes, "This**
20 **event made Mr. Soult think that Bechtel may have**
21 **conducted some type of review of the project."**

22 **A. I have got no reason to dispute that. I**
23 **mean, I'm sure if Mr. Soult said that, that's**
24 **accurate.**

25 **Q. Okay. But it's your testimony that you**

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1 **don't recall Mr. Soult ever informing you of these**
2 **facts?**

3 A. I don't recall being informed of these
4 facts.

5 **Q. Do you consider these to be significant**
6 **facts in connection with the project?**

7 A. Well --

8 MR. LIGHTSEY: Object to the form.

9 THE WITNESS: I am not a
10 construction engineer by any means, and I would
11 depend on them to make the determination as to
12 whether that's something that -- they do a lot of
13 monitoring, and so it's -- I would leave it to
14 their discretion as to whether.

15 BY MR. CHALLY:

16 **Q. Sitting here today, do you believe those**
17 **facts to be significant?**

18 A. Knowing what I know today, yes, sir.

19 **Q. Do you wish you would have had more, a**
20 **greater awareness of Mr. Soult's interaction with**
21 **these individuals in 2015?**

22 A. The answer to that is probably yes, knowing
23 what I know now. But at the time, under the
24 different conditions and believing everything done in
25 good faith and transparent, it may have been

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1 significant to me to know that SCE&G was having this
2 performed as a way of trying to complete the project
3 and do the project. So I don't know that I would
4 have viewed it as a negative that they did it, it
5 might have been a positive under the circumstances
6 that existed at the time. Now, the circumstance as
7 it exists today, I've got a different view of it.

8 But the fact that they were doing a --
9 having an assessment done, I think would be -- would
10 be something that they would monitor and keep going
11 with it. But based on what we thought our
12 relationship was with SCE&G and SCANA at the time, I
13 would probably have thought, you know, that this is
14 probably good, we were anxious to learn the, you
15 know, learn the results of it.

16 **Q. So your reaction in 2015, you're expecting,**
17 **would have been that this was a good thing?**

18 A. It could have could been. I don't know. I
19 mean, but it could have been viewed as a good thing.

20 **Q. Let me ask it again, I'm not sure I got an**
21 **answer to this question, Mr. Scott: Do you wish you**
22 **would have known more about Mr. Soult's exchange in**
23 **2015 than you can now recall knowing?**

24 A. Under the -- what I know today, yes, sir.

25 **Q. And what is it that you know today that**

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1 **causes you to want to have more information in 2015?**

2 A. Simply because of the result that happened.
3 I may still have a job today if we would have known
4 more. But at the time, I still think it could have
5 been viewed as a positive that they realized they
6 needed someone to come in and do an assessment for
7 it. But that would have been based on information
8 that I knew then, different than information that I
9 don't know now.

10 **Q. So you did nothing to follow up on knowledge**
11 **that Mr. Soult gained in 2015 regarding a Bechtel**
12 **assessment of the project, right?**

13 MR. LIGHTSEY: Object to the form.

14 THE WITNESS: I don't know how you
15 follow up on something you don't know about.

16 BY MR. CHALLY:

17 **Q. But you didn't -- exactly. You didn't know**
18 **anything about it, so you did nothing to follow up on**
19 **whatever it was Mr. Soult was informed of in October**
20 **of 2015?**

21 MR. LIGHTSEY: Object to the form.

22 THE WITNESS: Well, I mean --
23 yeah, I mean, I don't think the answer to that is
24 yes or no. I don't know how you can follow up on
25 something and be accused of doing nothing about

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1 something you don't know about.

2 BY MR. CHALLY:

3 Q. Are you aware of the fact that ORS staff,
4 following this plan-of-the-day meeting, asked SCE&G
5 about the Bechtel assessment in an October 2015
6 on-site visit?

7 A. I didn't know about it in October of 2015.
8 After the Bechtel report became public, I believe
9 that I was told about it.

10 (Exhibit No. 6 was marked for
11 identification.)

12 Q. Mr. Scott, I have handed you what I have
13 marked as Exhibit 6. The first page of this document
14 is an e-mail, and you're not on this e-mail. But the
15 second page is a --

16 A. Did you say I was on this e-mail?

17 Q. You are not.

18 A. Okay.

19 Q. The second page is a Site Visit Agenda. Are
20 you familiar with the fact that ORS staff
21 participated in site visits?

22 A. Yes, sir.

23 Q. And specifically that Mr. Jones participated
24 in those site visits?

25 A. I mean, I never went with him out there, but

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1 my understanding is he participated in site visits.

2 Q. And you relied on Mr. Jones to identify for
3 you what was significant or not from the site visits
4 he conducted; is that right?

5 A. Well, not just Mr. Jones. I mean, you had
6 Anthony and you've got Allyn Powell and you've got
7 Gene Soult out there.

8 Q. So you relied on those individuals to inform
9 you of what was significant or not from the site
10 visits; is that right?

11 A. I think that's right.

12 Q. And if they learned of something
13 significant, your expectation would have been that
14 you were then informed of that information?

15 A. Somebody would have been. It might have
16 been Ms. Edwards as Deputy Executive Director or Dan
17 Arnett before he retired, but they would go up the
18 chain.

19 Q. Okay. Flip with me to page five. Under
20 Section 6, d --

21 A. Uh-huh.

22 Q. There is a note for, "Discuss the status of
23 the Bechtel assessment and the top ten issues noted
24 thus far."

25 A. Sir?

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1 **Q. I'm just reading the sentence, "Discuss the**
2 **status of the Bechtel assessment and the top ten**
3 **issues noted thus far."**

4 A. Oh, yes, sir.

5 **Q. Do you see that?**

6 A. Yes, sir.

7 **Q. So is it your testimony that you were**
8 **unaware of the fact that ORS staff included this item**
9 **on the agenda for the October 27-28, 2015 site visit?**

10 A. At that time, I was unaware of it.

11 **Q. When did you become aware of it?**

12 A. When I read the Interrogatories from SCE&G,
13 and there is some question in the Interrogatory from
14 SCE&G regarding this agenda item, I believe. I did
15 not see the response of ORS to the question.

16 **Q. All right.**

17 A. And I'm going by memory here.

18 **Q. Did you ever attend an on-site visit?**

19 A. Not an official on-site visit. At one
20 point, I went out with Ms. Edwards, and it was, I
21 think it was a Friday, and he gave us a tour of it
22 but not a -- but that's the only time I went out
23 there, that I recall. Well, other than maybe a
24 meeting. But that wasn't an on-site -- I mean it was
25 on-site and it was a visit but we didn't talk; he

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1 just showed us around.

2 Q. But you don't have any memory of, one way or
3 the other, attending an October 2015 site visit; is
4 that right?

5 A. No, sir.

6 Q. Did your staff report back to you about this
7 particular site visit?

8 A. There is something in the review committee
9 letter about it.

10 Q. What do you recall being in a review
11 committee letter?

12 A. I don't remember what's in there but there
13 is something in the review committee about a site
14 visit in October.

15 Q. And what specific letter are you referring
16 to?

17 A. It would have been probably the -- I think
18 it was the letter, like October 22nd or something
19 like that.

20 Q. So you think there was -- oh, a letter sent
21 in advance of this meeting?

22 A. No, sir. I think it was after the meeting.

23 Q. Well, the meeting was scheduled for
24 October 27 and October 28.

25 A. Oh, no, I must be wrong. I thought there

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1 was a October -- it might have been October 27-28, I
2 don't know.

3 **Q. The letter might have been?**

4 A. It might have been. And I thought it
5 referred to the site visit, but I haven't read that
6 letter in a long time.

7 **Q. Do you recall getting a report from**
8 **Mr. Jones about this site visit?**

9 A. Not specifically from Mr. Jones.

10 **Q. Did Mr. Jones, in 2015, regularly report to**
11 **you following his site visits?**

12 A. In 2015, I did not have a regular meeting
13 with Mr. Jones.

14 **Q. But you later began to have those regular**
15 **meetings following site visits in 2016; is that**
16 **right?**

17 A. It would have been maybe later part of 2015
18 and 2016 we would start meeting.

19 **Q. So it was your expectation that in October**
20 **of 2015 when this site visit occurred that you had a**
21 **meeting with Mr. Jones to discuss the site visit?**

22 A. I don't think I had a meeting to discuss the
23 site visit at that time. But I think -- I think
24 there is something in a review committee letter about
25 it. I believe that to be true, but I may be wrong.

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1 It seems like it was October 22nd -- October --

2 **Q. What's your best memory of when you began**
3 **having meetings with Mr. Jones after his site visits**
4 **at the project?**

5 A. I don't remember the date, but it was either
6 probably the last part of 2015 and into 2016.

7 **Q. Meaning October 2015?**

8 A. I don't know.

9 **Q. Are you sure you had a meeting with**
10 **Mr. Jones in November of 2015 regarding the site**
11 **visit?**

12 A. I don't know.

13 **Q. Would you have expected that you had such a**
14 **meeting, given what your memory is?**

15 A. Not necessarily. We started those meetings
16 in either the last part 2015 or 2016, is my memory is
17 when we started them.

18 **Q. And the purpose for those meetings was for**
19 **Mr. Jones to give you a summary of what he learned**
20 **during his site visits; is that right?**

21 A. Yes, sir.

22 **Q. And you were relying on Mr. Jones to**
23 **identify for you what was significant or not**
24 **significant from those site visits, correct?**

25 A. Not just Mr. Jones. I mean, you had others

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1 out there; Ms. Powell and Mr. Soult and all, but,
2 yes.

3 Q. Are you familiar with the fact that this
4 particular item on the agenda discussed the status of
5 the Bechtel assessment and the top ten issues noted
6 thus far was removed from the November site visit
7 agenda?

8 A. I have learned that again when I gave input
9 on the Interrogatories. There is a question about
10 the agenda item and about being removed, but I
11 have -- I did not read the results because I didn't
12 have any input into that one.

13 Q. Are you aware of the process, the typical
14 process the ORS engaged in with respect to the site
15 visit agendas?

16 A. No, sir.

17 Q. So do you know whether or not the ORS had
18 input on these agendas?

19 A. No, sir, I don't know for a fact, no, sir.

20 Q. Do you know whether -- what circumstances
21 led these agenda items to be removed?

22 A. No, sir. I think there's a Response of ORS
23 in the Interrogatories.

24 Q. So what were you doing, Mr. Scott, to
25 monitor the progress of the project in October of

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1 **2015?**

2 MR. LIGHTSEY: Object to the form.

3 THE WITNESS: We had staff out
4 there monitoring it. I wasn't personally
5 monitoring it.

6 BY MR. CHALLY:

7 **Q. I understand. What were you doing to**
8 **oversee what the staff was doing?**

9 MR. LIGHTSEY: Object to the form.

10 THE WITNESS: Well, I mean, you
11 know, I had Anthony James at the head of it, and
12 then he reported at one point to the Chief of
13 Staff and then Ms. Edwards. But I was meeting
14 with them and trying to get the information from
15 them. But, I mean, there is a lot more to ORS
16 and running the state agency that you have to
17 spend time on, too.

18 BY MR. CHALLY:

19 **Q. In late 2015, was there a single bigger**
20 **nuclear construction project in the state of South**
21 **Carolina?**

22 A. No, sir.

23 **Q. Has there ever been a bigger construction or**
24 **energy construction project in the state of South**
25 **Carolina than Units 2 and 3 at V.C. Summer?**

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1 A. Well, you had, what, two or three units
2 built in Oconee. You had two or three -- I think two
3 in Oconee, three at Catawba, you had V.C. Summer 1,
4 and that was a challenge. You had the Harris plant,
5 which is in North Carolina, but we -- you know, South
6 Carolina customers are allocated -- I mean, you can't
7 control electrons but economically allocated part of
8 it.

9 You had the Brunswick plant, you had -- now,
10 some of this was before my time. You had Perkins,
11 which was abandoned, you had Cherokee, which was
12 abandoned, just before, and you had McGuire being
13 constructed.

14 **Q. But those -- none of those projects were**
15 **more significant or larger than the construction of**
16 **Units 2 and 3 at V.C. Summer, right?**

17 A. Well, I mean, Catawba was three units versus
18 two, but dollar-wise I don't know about present
19 value, but dollar-wise, they were significant.

20 **Q. And this was certainly the biggest**
21 **construction, energy construction project, that had**
22 **been conducted during the ORS's existence; isn't that**
23 **right?**

24 A. In ORS's, yes, sir.

25 **Q. So the biggest energy construction project**

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1 **in ORS's existence, and you can't tell me a specific**
2 **thing you were doing to monitor the activity of the**
3 **ORS staff tasked with overseeing the project?**

4 MR. LIGHTSEY: Object to the form.

5 THE WITNESS: Well, I mean, you
6 know, I was meeting with them, I was getting
7 information for the review committee letter.
8 But, you know, I mean, you know, I mean you can
9 make your own judgments about whether I was doing
10 the job or not. Of course I don't have that job
11 anymore.

12 BY MR. CHALLY:

13 **Q. Certainly true though, given ORS's role,**
14 **responsibility and its authority, that if the ORS**
15 **believed additional information was necessary in 2015**
16 **regarding any item on the project, the ORS had means**
17 **to solicit that information from SCE&G, right?**

18 A. They had to ask for it. Now, whether they
19 get it or not, they don't have control over.

20 **Q. Are you aware of a specific formal request**
21 **that you made to SCE&G that was denied?**

22 A. I made a request in 2017 for a list of items
23 in a letter. I don't -- I don't know if I can come
24 back saying it's denied, but I don't know that we got
25 all that information.

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1 The other denial was not for information but
2 to ask for the -- be in attendance for the meeting.
3 But other than that, I don't know that I -- I mean,
4 they were very cooperative with me, I thought.

5 **Q. So if you needed something, you would ask**
6 **for it and you would receive it?**

7 A. I don't know that I asked for anything, but
8 if I had, I believed I would have received it. But I
9 don't know, other than what I just told you, I wasn't
10 the one doing the information request.

11 **Q. In the fall of 2015, did you personally ask**
12 **anyone at SCE&G for information about Bechtel?**

13 A. I don't think so, no, sir.

14 **Q. In the fall of 2015, did you personally ask**
15 **anyone at SCE&G for information about an independent**
16 **assessment of the project?**

17 A. Not to my knowledge.

18 **Q. And is it your testimony that you didn't ask**
19 **for that because you didn't know about it?**

20 A. I didn't know -- I did not know about
21 Bechtel in 2015, to my knowledge.

22 **Q. But we have established the ORS was aware,**
23 **SCE&G was considering candidates to do an assessment,**
24 **that Bechtel had in fact done an assessment, and that**
25 **the ORS was asking for information related to the**

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1 **Bechtel assessment from SCE&G.**

2 A. I'm aware of it now.

3 **Q. You're aware of that now, but it's your**
4 **testimony you were not aware of that at the time it**
5 **was --**

6 A. I don't think I had heard of Bechtel at that
7 time. When I first heard of Bechtel, I didn't even
8 know who it was.

9 **Q. When was the first time you heard of**
10 **Bechtel?**

11 A. I think it was when, as I think I mentioned
12 earlier, where my memory is, and I think it may be
13 different from somebody else's, that he asked me if
14 staff ever mentioned a Bechtel report to me.

15 **Q. Mike Couick asked you that; is that right?**

16 A. I think that's what I -- yes.

17 **Q. What --**

18 A. That's my memory, now. I don't know that
19 his is the same.

20 **Q. What is the most precise time frame you can**
21 **give to me on when Mr. Couick had that conversation**
22 **with you?**

23 A. It would have been after -- it would be -- I
24 think it would have to be after February 2016, but I
25 don't know the time frame from that.

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1 Q. But before, let's say the settlement of the
2 matters pending in the 2016 docket; is that right?

3 A. I would think so.

4 Q. So sometime before --

5 A. I think so. I don't know that, but I think
6 so.

7 Q. Your memory is that sometime as early as
8 February of 2016 and as late as the settlement of the
9 2016 docket, Mike Couick asked you if the staff had
10 ever informed you about Bechtel doing an assessment
11 of the project?

12 A. I don't know the exact time frame. I'm not
13 sure whether you stated the exact time frame.

14 Q. I did. Is said that's your best remember
15 memory.

16 A. Of what?

17 Q. Sometime in that time frame, February of
18 2016, to the settlement of the 2016 document -- let
19 me finish my question -- Mike Couick informed you or
20 asked you whether the ORS had told you that Bechtel
21 had done an assessment of the project?

22 A. I can't sit here and say it was before the
23 settlement agreement because I don't know that.

24 Q. But you think it was?

25 A. I don't know.

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1 Q. Well, you were interacting with Mike Couick
2 regularly during 2016 in connection with matters
3 related to the project; isn't that right?

4 A. Right.

5 Q. You were?

6 Isn't it true that Mike Couick and
7 representatives of the ECSC were meeting with Gary
8 Jones monthly after his site visits on the project?

9 A. It was a period of time when that occurred,
10 yes, sir.

11 Q. And those are site -- those were meetings
12 that you attended as well; is that right?

13 A. Yes, sir.

14 Q. Did you have meetings with Mr. Couick
15 related to the project on that regular of a basis
16 outside of the 2016 time frame?

17 A. I don't think so.

18 Q. So is it your best recollection today that
19 this conversation with Mr. Couick had to have
20 occurred in 2016?

21 A. I would think so because the report wasn't
22 issued in 2016.

23 Q. I'm sorry, say that one more time?

24 A. I thought the final report, the Bechtel
25 report, was 2016.

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1 **Q. Okay. Why does that -- how is that -- did**
2 **Mr. Couick tell that you he was aware of a Bechtel**
3 **report in 2016?**

4 A. No, sir. No, sir. He asked me if the staff
5 had talked to me about a Bechtel report and my answer
6 to that was no.

7 **Q. Did you get the sense that Mr. Couick was**
8 **aware that there was a Bechtel report in 2016?**

9 A. I don't know how you would ask if they told
10 you about it if you weren't aware of it, but --

11 **Q. So your memory is that Mike Couick was aware**
12 **of a Bechtel report in 2016?**

13 A. At some point in 2016, I think.

14 **Q. Do you have any idea as to how Mr. Couick**
15 **became aware of a Bechtel report in 2016?**

16 A. Yes, sir.

17 **Q. How did he become aware of a Bechtel report**
18 **in 2016?**

19 A. Well, there's two things, and I -- our
20 memories are different. But, one, he said he heard
21 about it at the 2016 hearing, so that would have been
22 after the settlement agreement. And the other is
23 that a board member had told him about it -- didn't
24 tell him about it, I don't know what he told him,
25 but --

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1 **Q. Is that a board member of Santee Cooper?**

2 A. Yes.

3 **Q. Do you have any idea what board member of**
4 **Santee Cooper that might have been?**

5 A. I think it was Mr. Wolfe.

6 **Q. Sorry?**

7 A. I think he told me Mr. Wolfe. I don't know
8 that he would agree with that.

9 **Q. So your memory is that Mike Couick told you**
10 **in 2016 that he had been informed of a Bechtel report**
11 **by Jack Wolfe?**

12 A. No, sir. He didn't inform me that he had
13 been told of the Bechtel report at all at that point
14 in time. That just -- that came up a lot later. And
15 he didn't tell me there was a Bechtel report. He
16 asked me if my staff had mentioned a Bechtel report.
17 He didn't tell me there was a Bechtel report.

18 **Q. But we were getting your understanding of**
19 **what Mr. Couick had learned. And what you're telling**
20 **me is that you now know, your memory, is that Mike**
21 **Couick had been informed of a Bechtel report from**
22 **Jack Wolfe?**

23 MR. LIGHTSEY: Object to the form.

24 THE WITNESS: At some point. He
25 did not mention that at that time. It was some

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1 point. But I think I read where he said he heard
2 about it at the -- at the meeting. So I may be
3 all wrong about that. Because I think I read
4 somewhere that he said he was told about it at
5 the hearing in October of 2016.

6 But he didn't tell me there was a
7 report. He asked me if the staff had said
8 anything about it. And I don't think his memory
9 is the same as mine.

10 BY MR. CHALLY:

11 **Q. Have you had a specific discussion with**
12 **Mr. Couick about this exchange?**

13 A. About this exchange?

14 **Q. Your exchange with him.**

15 A. Now, Ms. Edwards was present.

16 **Q. When was this discussion?**

17 A. This would have been probably -- it had to
18 be after the Interrogatories were issued. The
19 second -- y'all's Interrogatories, not the first set
20 but the set that was issued in --

21 **Q. What caused you to believe that Mike Couick**
22 **had been informed by Jack Wolfe that there was a**
23 **Bechtel report?**

24 A. I thought that's what he told me.

25 **Q. You thought he told you that in 2016?**

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1 A. I don't know when. It might have been 2017
2 when he told me that. I don't know when he told me
3 that.

4 Q. You understand that 2017, particularly by
5 the summer of 2017, is a very critical time for the
6 project, right?

7 A. Critical time for me, too.

8 Q. Fair. And the entire year of 2017 was
9 critical because it was in early 2017 in March that
10 Westinghouse had declared bankruptcy, right?

11 A. I think so.

12 Q. Yeah. So you can't pinpoint whether this
13 conversation with Mr. Couick was in 2017 or 2016?

14 A. The conversation about the oral -- whether
15 we had seen about it -- whether we had read it?

16 Q. We're now talking about the conversation
17 where Mr. Couick, you recall Mr. Couick informing you
18 that Jack Wolfe had told Mr. Couick that there was a
19 Bechtel report.

20 MR. LIGHTSEY: Object to the form.

21 THE WITNESS: I can't pinpoint the
22 time frame.

23 BY MR. CHALLY:

24 Q. You can't pinpoint whether it's 2017 or
25 2016?

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1 A. No, sir, not that -- not that. I can tell
2 you that -- not that, I can't.

3 **Q. Are you sure this is a separate conversation**
4 **from when Mr. Couick asked you whether the ORS staff**
5 **had told you about a Bechtel report?**

6 A. Please say that again?

7 **Q. Are you sure whether or not this**
8 **conversation with Mr. Couick where he told you about**
9 **Jack Wolfe and the Bechtel report is different from**
10 **the conversation in which Mr. Couick told you or**
11 **asked you whether the staff had informed you of a**
12 **Bechtel report?**

13 A. It was a different conversation after that
14 period of time.

15 **Q. All right. So let's make sure we get all of**
16 **these conversations correct.**

17 **You recall one conversation which Mike**
18 **Couick asked you if the staff had told you about a**
19 **Bechtel report?**

20 A. I think there was one conversation when
21 Mr. Couick asked me if the staff had said anything to
22 me about a Bechtel report.

23 **Q. How did you respond to Mr. Couick?**

24 A. I said no.

25 **Q. Was there any other discussion at all on**

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1 **this topic?**

2 A. Not at that point in time.

3 **Q. Did Mr. Couick probe at all; did he just**
4 **accept your "no" and move on?**

5 A. I don't think so, because my memory is, and
6 I think my memory is different than his, but my
7 memory is that in one of those monthly meetings he
8 asked Ms. Powell about it, and Ms. Powell's response,
9 as I remember it, was that they had asked about it
10 and they were told at one point it was an oral Power
11 Point presentation to the board, and whoever she was
12 asking didn't have it, is my memory of what her
13 response was. So, no, he didn't just take "no." My
14 memory is he asked about it. Now, his memory, I
15 think, is different.

16 **Q. Now, was there any further discussion at**
17 **this meeting that you're recalling?**

18 A. No, sir, not about that.

19 **Q. The ORS was aware that it could have issued**
20 **a specific request for a Bechtel report at this time,**
21 **right?**

22 A. I think they issued a request that would
23 have included the Bechtel report.

24 **Q. Wasn't my question, Mr. Scott.**

25 **The ORS was aware at the time of this**

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1 meeting that it could have issued specific request
2 that said, SCE&G, produce the Bechtel report.

3 A. We didn't know there was a report.

4 Q. Mr. Couick is asking you about it.

5 A. Yeah, but he didn't tell me there was one.

6 Q. But ORS is aware that it could have issued a
7 request to SCE&G that said, produce the Bechtel
8 report.

9 A. They could have said, if there is a report,
10 produce it.

11 Q. Could have done that. And why did you not
12 do that?

13 A. I don't know.

14 Q. Was there a discussion about it at the time?

15 A. Not with me. When we finally -- when we
16 finally asked about it, when we did ask about it,
17 they said it was attorney-client privilege, is my
18 understanding, but that wasn't to me.

19 Q. Okay. So -- all right. That's one
20 conversation with Mike Couick that also involved
21 Allyn Powell and you where Bechtel comes up.

22 A. Right. There would have been others in
23 there, too.

24 Q. That's one conversation. Is that the first
25 conversation that you can recall where the word

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1 **Bechtel came to your mind?**

2 A. No, sir. The first conversation is when he
3 asked me had staff said anything about a Bechtel
4 report. That's the first conversation.

5 **Q. So that was not in the meeting with**
6 **Ms. Powell?**

7 A. No, sir.

8 **Q. This is a separate conversation between you**
9 **and Mr. Couick?**

10 A. Yes, sir.

11 **Q. And your response is, no, I know nothing**
12 **about it.**

13 A. I didn't say, no, I didn't know nothing
14 about it, but I said, no, they haven't mentioned it
15 to me.

16 **Q. And then there was no further follow-up in**
17 **that discussion between you and Mr. Couick?**

18 A. I don't remember any follow-up.

19 **Q. But then there was another meeting that you**
20 **can recall. Is this the next meeting at which you**
21 **can recall the word Bechtel came up?**

22 A. I don't -- I don't know about -- I believe
23 it would be that it probably was because -- but I
24 don't know that.

25 **Q. And at that meeting, Mr. Couick is in**

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1 attendance, to your memory?

2 A. Yes, sir.

3 Q. And Mr. Couick is asking Ms. Powell whether
4 she knows anything about a Bechtel report?

5 A. That's the gist of what my memory is.

6 Q. Didn't that register to you as significant
7 that Mike Couick has now asked twice about a Bechtel
8 report?

9 A. Well, it is significant, but I took -- we
10 took SCE&G at their word that there was a Power Point
11 presentation, an oral presentation. But my
12 understanding was that there wasn't a report at this
13 point.

14 Q. So presentation and report are two different
15 things to you; is that right?

16 A. Well, yes, sir.

17 Q. So if someone asks for a report, it wouldn't
18 encompass a presentation, correct?

19 A. I don't think so.

20 Q. Okay. You're familiar with the fact that
21 Mike Couick is a politically-connected person in the
22 state of South Carolina; isn't that right?

23 MR. LIGHTSEY: Object to the form.

24 THE WITNESS: Yes, sir.

25

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1 BY MR. CHALLY:

2 Q. And you're familiar with the fact that
3 Mr. Couick, particularly given his role with the
4 Electric Cooperatives, was uniquely interested in the
5 V.C. Summer project, right?

6 A. Yes, sir.

7 Q. In fact, on behalf of the Electric
8 Cooperatives of South Carolina, Mr. Couick had
9 intervened in the 2016 docket related to V.C. Summer,
10 correct?

11 A. Yes, sir.

12 Q. And so now you have been informed twice of
13 Mr. Couick's questions regarding a Bechtel report,
14 correct?

15 MR. LIGHTSEY: Object to the form.

16 THE WITNESS: (Witness nodded
17 head.)

18 BY MR. CHALLY:

19 Q. What did you personally do in response to
20 that knowledge to solicit more information regarding
21 Bechtel?

22 A. I don't think I did anything else.

23 Q. Did you think Mr. Couick had all the
24 information he needed on this topic and that's why
25 you didn't do anything else?

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1 A. I didn't think that through.

2 **Q. Anything else that you can recall about this**
3 **exchange that involved Mr. Couick, you, and**
4 **Ms. Powell?**

5 A. It wasn't just Mr. Couick, me, and
6 Ms. Powell; there was others in the room, too.

7 **Q. Who else was in the room?**

8 A. Gary would have been in the room.

9 **Q. Gary Jones?**

10 A. I would think so. Anthony could have been
11 in. There were different people in and out.
12 Ms. Hudson was, I think attended some. I think
13 Ms. Edwards might have attended one, but it was sort
14 of in and out.

15 **Q. Where do you recall this meeting taking**
16 **place?**

17 A. At the Co-Op's offices on Knox Abbott Drive.

18 **Q. Are you aware of Mr. Jones meeting with the**
19 **Co-ops about the project at any time outside of the**
20 **2016 time frame?**

21 A. There was -- at ORS expense, he met with the
22 Co-ops at Kiawah Island.

23 **Q. Also in 2016?**

24 A. I don't know when that was. I mean, that's
25 easy to find, but I don't know when that was. I

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1 don't think it -- I don't know whether it was in 2016
2 or not.

3 **Q. But other than the meeting with the Co-ops**
4 **at Kiawah and meetings that occurred in 2016, you're**
5 **not aware of Mr. Jones meeting with the Co-ops and**
6 **Mike Couick at any other time regarding the project,**
7 **is that right?**

8 A. The quarterly meetings, but I -- you know,
9 and there was a meeting at Kiawah where he gave a
10 presentation. But I'm not aware that he would have
11 met with them without me being present.

12 **Q. All right. So Ms. Powell responds to**
13 **Mr. Couick that she's aware of a Power Point**
14 **presentation, not a report?**

15 A. That was my memory.

16 **Q. And then what's the next conversation that**
17 **you had with Mr. Couick where the word Bechtel was**
18 **mentioned?**

19 A. It would have been -- my memory would be
20 that it would be sometime after it became a public --
21 a public -- I don't know whether --

22 **Q. After abandonment of the project?**

23 A. It would have been after abandonment of the
24 project, but it would have been after -- I think it
25 first came to light in the Senate hearings, so it

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1 would have been sometime after that.

2 **Q. When, to your memory, did Mr. Couick inform**
3 **you that Jack Wolfe had told him there was a Bechtel**
4 **report?**

5 A. I don't know. I just don't know.

6 **Q. You don't know whether that was before or**
7 **after abandonment?**

8 A. I don't know. He didn't tell me at the
9 beginning.

10 **Q. Tell me everything you can recall about this**
11 **conversation when Mike Couick informed you that Jack**
12 **Wolfe had told him there was a Bechtel report.**

13 MR. LIGHTSEY: And I just need to
14 object. If this was the meeting with
15 Ms. Edwards, you know, I would instruct the
16 witness not to go into that.

17 THE WITNESS: I don't know whether
18 Ms. Edward was there or not. I don't think she
19 was.

20 BY MR. CHALLY:

21 **Q. Okay. Everything that you can recall about**
22 **the meeting with you and Mike Couick where Mike**
23 **Couick told you that Jack Wolfe had told him there**
24 **was a Bechtel report.**

25 A. That was it. I mean, in some conversation I

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1 had with him, my memory is that.

2 **Q. Who is Jack Wolfe, to your understanding?**

3 A. He is -- used to be head of Mid Carolina and
4 he is on the board of Santee Cooper.

5 **Q. What's your understanding of Jack Wolfe's**
6 **relationship to Mike Couick?**

7 A. I think they're fond of each other. I mean,
8 I think they like each other. They have a lot of
9 respect for each other.

10 **Q. Do you understand that Mike Couick received**
11 **information regarding the status of V.C. Summer from**
12 **Jack Wolfe periodically during the project?**

13 A. No, sir. I don't have any knowledge of
14 that.

15 **Q. But you believe that -- you said that Mike**
16 **Couick and Jack Wolfe are fond of each other?**

17 A. That's what I think, but, I mean, I don't
18 have conversations, I mean --

19 **Q. What makes you think that then?**

20 A. They just seem to always have a mutual
21 respect for each other.

22 **Q. Do you know that they were sharing**
23 **information about energy regulation in the state of**
24 **South Carolina?**

25 A. No, sir.

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1 **Q. Do you know that they were sharing**
2 **information about the Santee Cooper's operations in**
3 **the state of South Carolina?**

4 A. No, sir.

5 **Q. You just know they're fond of each other?**

6 A. I use the word "fond," and I don't know
7 that -- but I think they have a mutual respect for
8 each other.

9 **Q. Did Mike Couick tell you that he had**
10 **received a copy of the Bechtel report from Jack**
11 **Wolfe?**

12 A. No, sir.

13 **Q. Did Mike Couick tell you that he had seen a**
14 **copy of the Bechtel report?**

15 A. No, sir.

16 **Q. Did Mike Couick tell you that he had heard**
17 **of the results from the Bechtel report?**

18 A. No, sir.

19 **Q. All he said, to your memory, is that Jack**
20 **Wolfe told him there was a Bechtel report?**

21 A. When he was talking about how he -- why he
22 asked the question, I guess, he mentioned -- he said
23 that. But that was sometime afterwards. But, no, I
24 don't know about their conversation.

25 **Q. So you had a conversation with Mike Couick**

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1 **where Mike Couick was attempting to explain to you**
2 **why he asked twice earlier about a Bechtel report?**

3 A. He wasn't trying to explain anything to me.

4 **Q. Did you ask him?**

5 A. No, sir.

6 **Q. Hey, Mike, why did you ask twice about a**
7 **Bechtel report previously?**

8 A. No, sir. No, sir.

9 **Q. Then how did the topic come up?**

10 A. I don't know. I think he just said that's
11 how he found out -- that might have been even after
12 it was public, but I don't know.

13 **Q. Okay.**

14 A. And I don't even know whether he would agree
15 with me or not.

16 **Q. Did you ever discuss the status of the**
17 **project with Santee Cooper board members?**

18 A. I had a lunch -- I got a call, and I don't
19 know when this is and I don't know whether she was a
20 Santee Cooper board member at the time or she had
21 already gone to DHEC. But Frank Ellerbe called me
22 and said -- I have known Katherine, she was a lawyer
23 with Duke Energy at one point and she was President
24 of Duke Energy of South Carolina, and I had known
25 her. And Frank said, Katherine wants to -- and I

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1 don't remember exactly but something to the effect
2 Katherine would like for us to have lunch with her,
3 and not -- didn't mention the V.C Summer project.
4 But it wasn't -- I don't think that was the only time
5 that we did but it might be, and so -- at Villa
6 Tronco. And I thought it was just a personal
7 meeting, you know -- not meeting but lunch. And it
8 was, pretty much.

9 But at that lunch, she never mentioned
10 Bechtel, but she said, Dukes, some, some projects
11 have an independent engineer, I think is what she
12 said. She didn't tell me about Bechtel, she didn't
13 tell me where she got it from, and I can't remember
14 whether she was a board member then or not, but
15 that's the only board member that I would have --
16 would have --

17 **Q. When was this meeting, to the best of your**
18 **recollection?**

19 A. I don't know.

20 **Q. You have no idea whether this was -- it was**
21 **before abandonment, though, right?**

22 A. Oh, yes, sir.

23 **Q. So would this have been 2015, 2016, you have**
24 **no idea?**

25 A. I don't -- I don't know whether it was 2015

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1 or 2016. Because that's why I don't know whether she
2 was a board member or not. You asked me if I had
3 conversation with a board member or she had already
4 gone to DHEC. It seems like when I followed her to
5 her car it was a state car, which she wouldn't have
6 had a state car as a board member, but I don't know.

7 **Q. All right. And you recall her asking you**
8 **about an owner's engineer; is that right?**

9 A. I don't know whether that's the term she
10 used, but she did mention that some have a -- she
11 might have said an independent engineer or something.
12 It wasn't a big deal, and she didn't really go into a
13 lot of detail on it, but she did mention that to me.

14 **Q. Was this the only thing, other than**
15 **discussions of a personal nature, that occurred at**
16 **this meeting?**

17 A. To my knowledge, the rest of it was, how you
18 doing, you know, that type of thing.

19 **Q. Did you view that as significant?**

20 A. No, sir, because, I mean, it was Frank
21 Ellerbe, who is a good friend, and Katherine. He
22 represented Katherine when she was at Duke. So, no,
23 I didn't -- I thought it was a friendly meeting. And
24 I don't know whether -- and that's why I'm thinking
25 she might have already been at DHEC because, you

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1 know -- but I don't know that. And I don't know
2 exactly when she went to DHEC.

3 **Q. So at the time you had this meeting, did you**
4 **connect this idea -- or actually, back up.**

5 **Today, you connect this idea of an**
6 **independent engineer with Bechtel; is that right?**

7 A. Yes, sir, I think that's true. But she
8 didn't mention Bechtel.

9 **Q. I understand that. But you connect the two?**

10 A. Once I discovered -- the Bechtel report was
11 discovered, yeah, I connected the two.

12 **Q. And so now you have three communications**
13 **from someone affiliated with The Electric**
14 **Cooperatives of South Carolina, because you**
15 **understood that Frank Ellerbe represents the Electric**
16 **Cooperatives of South Carolina, right?**

17 A. He is the President of the Electric
18 Cooperatives.

19 **Q. Okay. You have three conversations with**
20 **someone connected to The Electric Cooperatives of**
21 **South Carolina where they are mentioning something**
22 **that is, to you, connected to the Bechtel report**
23 **today, right?**

24 MR. LIGHTSEY: Object to the form.

25 THE WITNESS: That's connected to

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1 Bechtel, yes, sir.

2 BY MR. CHALLY:

3 **Q. Does that convey to you today that the**
4 **Electric Cooperatives knew about the Bechtel report**
5 **prior to abandonment of the project?**

6 A. I don't know whether they knew about the
7 Bechtel report, but they did know enough to ask about
8 it before the -- and it was before the abandonment.

9 **Q. And it's your understanding that the**
10 **Electric Cooperatives of South Carolina became aware**
11 **of the Bechtel report because Jack Wolfe told Mike**
12 **Couick about it?**

13 MR. LIGHTSEY: Object to the form.

14 THE WITNESS: That's my
15 understanding. But what I read in the paper is
16 different than that.

17 BY MR. CHALLY:

18 **Q. Are you aware of the ORS ever submitting a**
19 **request to SCE&G for written work product from**
20 **Bechtel?**

21 A. No, sir.

22 **Q. Do you agree with me that if in 2015 the ORS**
23 **thought there was additional information necessary**
24 **regarding the status of the project, the ORS could**
25 **have decided not to enter into a settlement of the**

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1 **2015 docket?**

2 A. We didn't have to enter into the settlement
3 in 2015.

4 **Q. And you could have said, I am not going to**
5 **settle this because I need more information regarding**
6 **the status of the project?**

7 A. I think that's true. Can we take a break?

8 **Q. Absolutely.**

9 THE VIDEOGRAPHER: This concludes
10 video number two in the video deposition of Dukes
11 Scott. The time is 14:25. We are now off the
12 record.

13 (A recess was taken.)

14 THE VIDEOGRAPHER: We're back on
15 the record. Today's date is November 7, 2018.
16 The time is 14:40. This is the beginning of
17 media number three in the video deposition of
18 Dukes Scott.

19 BY MR. CHALLY:

20 **Q. Mr. Scott, the second meeting that you**
21 **described, the one that involved Mike Couick, you,**
22 **and Allyn Powell, is it your memory that Gary Jones**
23 **was in that meeting?**

24 A. I would think so.

25 **Q. Is it your memory that Anthony James was in**

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1 **that meeting?**

2 A. I don't know the answer to that. He could
3 have been. He came to some, and I think Gary would
4 have been in there, I think.

5 **Q. And your memory that Mr. Couick asked about**
6 **a Bechtel report in that meeting?**

7 A. He asked if they had seen a Bechtel report,
8 is my recollection.

9 **Q. Now, Mr. Scott, the ORS is the only state**
10 **agency that has the authority to monitor the V.C.**
11 **Summer project; isn't that right?**

12 A. I think that's correct. I don't know
13 whether DHEC has some role out there.

14 **Q. What is DHEC?**

15 A. Department of Health and Environment
16 Control. I think they have some duties out there.
17 Not necessarily to monitor construction but they've
18 got some duties out there.

19 **Q. So the only state agency that is involved in**
20 **monitoring construction of the V.C. Summer project is**
21 **the Office of Regulatory Staff?**

22 A. I think that's true.

23 **Q. In 2015 and 2016, what were you doing as the**
24 **Executive Director of the ORS to monitor the project?**

25 A. I had staff members out there to monitor the

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1 project for -- on behalf of ORS.

2 **Q. What were you personally doing to monitor**
3 **the project?**

4 A. I was getting the reports from -- from the
5 staff and reporting -- and reporting to PERC, a lot
6 of the issues there but I was getting reports. I
7 wasn't out there counting bolts.

8 **Q. So you're monitoring activities and included**
9 **nothing more than taking information from the staff**
10 **and then reporting that information to the PERC?**

11 A. Well, you have got a way of characterizing
12 the thing with "nothing more." I wouldn't say it was
13 "nothing more."

14 **Q. I just want to know what you were doing.**

15 A. And also we had a staff out there, and the
16 staff, the head of the NND reported to Ms. Edwards
17 since July of 2014. And it's similar to, I mean,
18 auditing a rate case. I mean, I'm not out there
19 auditing a rate case; I've got a staff out there
20 doing it. It doesn't mean I'm sitting back there
21 doing nothing.

22 **Q. Well, I want to know everything you were**
23 **doing to monitor the status of the project in 2015**
24 **and 2016.**

25 A. I don't -- I mean, I can't tell you

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1 everything I was doing. But I know we had a good
2 staff out there and we put a good staff together and
3 I think that was what my job was.

4 **Q. To oversee that staff?**

5 A. To -- not directly but indirectly oversee
6 it.

7 **Q. Indirectly oversee the staff that you had on**
8 **site?**

9 A. I mean under my -- you know, they reported
10 to the Deputy Executive Director who reported to me.

11 **Q. And as you sit here today, there is nothing**
12 **else specific that you can recall you were doing to**
13 **monitor the project in 2015, 2016?**

14 A. I can tell you I wasn't out there monitoring
15 it and I wasn't issuing data requests.

16 **Q. Other than providing information to the**
17 **PERC, what were you doing with information that the**
18 **staff was providing to you regarding the status of**
19 **the project?**

20 A. Well, at some points I was providing some
21 information to SCE&G as to what we were finding.

22 **Q. Okay. Anything else?**

23 A. I can't think of anything.

24 **Q. All right. Were you working full-time in**
25 **2015 and 2016?**

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1 A. I think I was. I was in a FTE; I think I
2 was working full-time.

3 **Q. Did you ever track, like, the number of**
4 **hours that you were working on a weekly basis?**

5 A. No, sir. I mean, it would have been --
6 believe me, there was times it would have been more
7 than the 37-1/2, but, no, I didn't track hours.

8 **Q. So at some point in this 2015, 2016 time**
9 **frame, you heard twice from Mike Couick something**
10 **about a Bechtel report; that's your memory, right?**

11 A. He used those words at least twice, yes.

12 **Q. After Mr. Couick left the meetings, did you**
13 **do anything to discuss with ORS staff the fact that**
14 **Mr. Couick apparently had more information about**
15 **Bechtel than you did?**

16 MR. LIGHTSEY: Object to form.

17 THE WITNESS: I don't recall that.

18 I don't recall that.

19 BY MR. CHALLY:

20 **Q. You didn't go to the staff and say, Couick's**
21 **asked twice about a Bechtel, report why don't we know**
22 **anything more than that?**

23 A. I don't think I did.

24 **Q. Why not?**

25 A. Because I took them at their word that they

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1 had asked about it and it was oral or it was a Power
2 Point. We weren't in an adversarial --

3 **Q. So if Mr. Couick --**

4 MR. LIGHTSEY: Let the witness
5 finish.

6 BY MR. CHALLY:

7 **Q. Go ahead. Were you finished?**

8 A. Go ahead. I don't know what I was going
9 to --

10 **Q. But in this meeting with Ms. Powell, you're**
11 **informed that there is a presentation?**

12 A. There was a Power Point presentation, I
13 think.

14 **Q. A power Point presentation, okay.**

15 **And you didn't think to yourself, why don't**
16 **we get a copy of that?**

17 A. Well, because when we asked for it, they
18 told us it was privileged.

19 **Q. When did you ask for it?**

20 A. That was after the -- I know that -- I think
21 staff called their counterparts, and they said that
22 Simpson Alloy would have to talk to their lawyer.
23 This was after the Senate --

24 **Q. That was after abandonment?**

25 A. That was after abandonment.

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1 **Q. But the conversation between Ms. Powell and**
2 **Mr. Couick was before abandonment?**

3 A. Oh, yes, sir.

4 **Q. So you didn't think to yourself, Couick's**
5 **asking about a report, Allyn's telling us there is a**
6 **presentation, why don't we ask for the presentation?**

7 A. Because they -- I thought we had asked for
8 it and they said they didn't have it -- whoever they
9 asked for it out there. But we weren't -- we didn't
10 know we were on an adversarial relationship with
11 SCE&G. We were working together, we thought, to
12 produce a nuclear plant to -- that would generate
13 green gas, whatever it is, carbon free. So, I mean,
14 if SCE&G said, we don't have it, to our staff, I
15 would believe them.

16 **Q. Well, but on many different occasions in**
17 **2015 and 2016, the ORS issued formal audit**
18 **information requests --**

19 A. Yes, sir.

20 **Q. -- to SCE&G.**

21 A. Right.

22 **Q. So my question is: You have Mike Couick,**
23 **who is, you have described, is a pretty powerful guy**
24 **in the state of South Carolina.**

25 A. I think you described it and I agreed with

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1 you.

2 **Q. Right. He's twice asking you about a**
3 **Bechtel report, you know there is a presentation**
4 **because Ms. Powell is telling you there is a**
5 **presentation, and you never asked for more**
6 **information regarding this presentation?**

7 A. I took SCE&G at their word.

8 **Q. Isn't it because you didn't think more**
9 **information regarding the presentation was**
10 **significant?**

11 A. It was because I trusted SCE&G.

12 **Q. And trusted in that, what; there was a**
13 **presentation? Because they had told you that;**
14 **Ms. Powell knew that.**

15 A. They knew -- she said -- I think she said it
16 was -- but they also told her, I think -- I know you
17 have taken her deposition and she may have a
18 different view -- they were not in possession of it.

19 **Q. And that was enough?**

20 **So Mike Couick is asking twice for more**
21 **information regarding a Bechtel report. Allyn Powell**
22 **saying, well, I know there was a presentation, and**
23 **they told us they don't have it, and the ORS said,**
24 **okay, I guess we can't do any more?**

25 A. We trusted them. That's why --

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1 **Q. Even though you could issue an audit**
2 **information request that said specifically, give me**
3 **everything about Bechtel's analysis?**

4 A. If they had known --

5 MR. LIGHTSEY: Object to the form.

6 THE WITNESS: -- that there was an
7 analysis, they could have issued such a data
8 request. I think they issued a data request that
9 would have covered that, and it wasn't mentioned
10 in the response.

11 BY MR. CHALLY:

12 **Q. Okay. Did you find it odd that Mike Couick**
13 **had more information regarding Bechtel than you did,**
14 **and you were the Executive Director of the only state**
15 **agency that could monitor the construction of the**
16 **project?**

17 A. No.

18 MR. LIGHTSEY: Object to form.

19 THE WITNESS: Keep in mind, Santee
20 Cooper is a state agency and they could monitor
21 the construction. And they had people out there,
22 and he's the largest, I think may be the largest
23 customer they have. So it doesn't strike me as
24 odd that he would know something that I didn't
25 know.

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1 BY MR. CHALLY:

2 Q. Did you find it odd at all that your staff
3 knew more about the Bechtel assessment than you did?

4 A. I don't know when they knew it, but they
5 were out there every day so, no, I didn't find that
6 odd.

7 Q. Did you do anything to follow up with staff
8 about the Bechtel assessment around this time?

9 A. Once -- once SCE&G said they did not have
10 it, we trusted SCE&G to be open and truthful with us,
11 so there was no reason for me to follow up.

12 Q. And if that was true -- so if SCE&G in fact
13 did not have anything more than this presentation
14 that they had told Ms. Powell about, then you believe
15 SCE&G was truthful, correct?

16 MR. LIGHTSEY: Object to the form.

17 THE WITNESS: I would think that
18 if they told the truth, it was truthful.

19 BY MR. CHALLY:

20 Q. Right. And the ORS knew that there was a
21 Power Point presentation?

22 A. I think they were told there was a Power
23 Point presentation that they did not have. And I'm
24 going by memory here, man. I have been retired and
25 beat up, I guess you could say.

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1 Q. You certainly never told the Public Service
2 Commission that the ORS had an indication that
3 Bechtel had conducted an assessment on the project
4 and the ORS needed more information about that
5 assessment, right?

6 A. I don't think so.

7 Q. You never told the Public Service
8 Commission, we're aware of Bechtel doing an
9 assessment, they provided a Power Point presentation
10 to SCE&G's board but we don't have a copy of it?

11 A. I don't think so.

12 Q. Why not?

13 A. I don't know.

14 Q. If the Commission believes that the fact of
15 an assessment is an important point, does that
16 surprise you?

17 A. No, it doesn't surprise me, because now I
18 think it's an important point to us, too. No, it
19 wouldn't surprise me.

20 Q. You think it's an important point now but
21 you didn't then?

22 A. I think SCE&G should have told them about
23 it.

24 Q. You think the fact of an assessment is an
25 important point now but you didn't then, right?

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1 A. I don't know. Back then, I believed what
2 they told me. But I think SCE&G should have told the
3 Public Service Commission about it.

4 **Q. But did you didn't do anything to learn more**
5 **information about an assessment when you knew that**
6 **assessment had occurred and you knew there was a**
7 **Power Point presentation provided to the board**
8 **related to it, and you knew that Mike Couick has**
9 **asked twice about a Bechtel report?**

10 MR. LIGHTSEY: Object to the form.

11 THE WITNESS: I took them at their
12 word. But I do think SCE&G should have told the
13 Commission because they had more information than
14 we did.

15 BY MR. CHALLY:

16 **Q. So you just had no responsibility at all**
17 **either to follow up and get additional information to**
18 **SCE&G or to follow up and provide information to the**
19 **Public Service Commission about what you did or**
20 **didn't know?**

21 MR. LIGHTSEY: Object to the form.

22 THE WITNESS: SCE&G to tell the
23 Public Service Commission what they should know.

24 BY MR. CHALLY:

25 **Q. But you entered into settlements with SCE&G**

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1 **in 2015 and in 2016 to resolve the issues associated**
2 **with the 2015 and 2016 dockets, right?**

3 A. We entered into settlement agreements, yes.

4 **Q. And in both of those, you indicated that**
5 **SCE&G and the cost they sought in the 2015 and 2016**
6 **dockets were reasonable and prudent, correct?**

7 A. I don't know that's the case. Now, I wasn't
8 at that hearing. We put up two witnesses, and the
9 witnesses said what they said they said. But I
10 wasn't present at the hearing because in October 2015
11 was when the flood, came and I was out at the
12 emergency management facility, but there is a
13 transcript of what they told them.

14 **Q. So are you aware of whether or not the**
15 **settlement agreements in 2015 and 2016 report on the**
16 **ORS's belief that the cost SCE&G sought in those**
17 **dockets was reasonable and prudent?**

18 A. I don't know that. I think the testimony
19 should have been that we didn't have the
20 preponderance of the evidence of imprudence. But
21 they could have said what they said they said. I
22 didn't review the testimony before they filed it.

23 **Q. Okay. Is it true that no one on the staff**
24 **came to you and said, we think we need more**
25 **information about Bechtel's assessment?**

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1 A. I don't recall them coming in to tell me
2 that.

3 **Q. Is it true that no one on -- no one from the**
4 **staff came to you and said, we need more information**
5 **about a Bechtel report?**

6 A. I thought that was the same question; is it
7 not?

8 **Q. No. I asked about an assessment in the**
9 **first instance and a report in the second.**

10 A. They came to me and said they needed more
11 information on the report? I don't recall them doing
12 that.

13 **Q. And they never came to you at all and said,**
14 **we need more information regarding Bechtel?**

15 A. And that was a long time. After it became
16 public in 2017, they did seek more information but
17 not before then, I don't recall that.

18 **Q. Even though, to your understanding, the**
19 **staff knew there was an assessment that Bechtel had**
20 **provided a presentation and that Mike Couick was**
21 **asking for copies of the report?**

22 MR. LIGHTSEY: Object to the form.

23 THE WITNESS: I didn't -- I don't
24 know what your question is.

25

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1 BY MR. CHALLY:

2 Q. All right. I will withdraw it.

3 Mr. Scott, you're aware, are you not, that
4 the consortium revised its schedule and cost
5 projections for the project in late 2014, correct?

6 A. I think they did, and I think SCE&G did not
7 accept it.

8 Q. You're aware SCE&G filed a petition on
9 March 12, 2015 seeking updates from the Commission to
10 the construction cost scheduled for the project; is
11 that right?

12 A. I think it was March. I don't know what --
13 I don't know the exact date.

14 Q. And you're aware that the March 12 -- excuse
15 me -- the March petition was based upon the updated
16 information SCE&G had received from the consortium?

17 A. That would be my understanding. I don't
18 know whether it was or not.

19 Q. And you're aware, are you not, that SCE&G
20 provided to the ORS the information that it received
21 from the consortium in late 2014 regarding this
22 updated schedule and cost, correct?

23 A. I don't -- I think I am familiar with that,
24 yes, sir.

25 (Exhibit No. 7 was marked for

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1 identification.)

2 **Q. Okay. I have handed you what I have marked**
3 **as Exhibit 7. Are you familiar with the document**
4 **that I have handed to you as Exhibit 7, Mr. Scott?**

5 A. No, sir .

6 **Q. Have you seen this document before?**

7 A. No, sir.

8 **Q. You have never seen it before?**

9 A. Not to my knowledge.

10 **Q. But you're familiar with the process through**
11 **which the ORS issued audit information requests to**
12 **SCE&G, correct?**

13 A. Generally speaking.

14 **Q. And you're familiar that SCE&G responded to**
15 **those audit information requests, correct?**

16 A. I don't know that. I mean, there is a
17 response down here, but --

18 **Q. As you sit here today, are you aware of a**
19 **specific audit information request the ORS issued to**
20 **SCE&G that SCE&G refused to respond to?**

21 A. I don't know of one.

22 **Q. Okay.**

23 A. Other than the one where they asked for
24 reports and they didn't mention the Bechtel report.

25 **Q. We'll come to that one in a little bit.**

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1 This particular -- well, describe to me the
2 process that you understood to take place at the
3 staff regarding audit information requests. Did that
4 just go on without your knowledge whatsoever?

5 A. Term "whatsoever" -- they did issue requests
6 that I didn't know about.

7 **Q. That you did or did not know about?**

8 A. They did issues requests that I wouldn't
9 know about.

10 **Q. Okay. And would you be aware of the content**
11 **of the requests at any time?**

12 A. Not -- not -- not totally, no, sir.

13 **Q. And then there was a process for the staff**
14 **to review the information that was provided?**

15 A. I would think so.

16 **Q. But you're not at all familiar with that**
17 **process?**

18 A. You use words like "at all" and things like
19 that that's just all-encompassing, you know, "all"
20 and "never" is hard to group. I wouldn't, as a
21 routine, when they get requests back, I wouldn't be
22 involved in reviewing the requests.

23 **Q. Do you know what process the staff had for**
24 **reviewing information provided in response to audit**
25 **information requests?**

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1 A. Not specifically.

2 **Q. Do you know generally?**

3 A. I would think, but I don't -- I don't know
4 whether I'm supposed to be thinking or not, that they
5 had a process, but that wouldn't be -- I wouldn't
6 know what that process was.

7 **Q. It's not something you were involved with at**
8 **all as the Executive Director of the ORS/**

9 A. Again, "at all." I wasn't generally, as a
10 general rule, involved with the review.

11 **Q. What I'm trying to understand, Mr. Scott, is**
12 **the full scope of your knowledge on this particular**
13 **topic, which is: How did you, as the Executive**
14 **Director of the Office of Regulatory Staff,**
15 **understand and expect the staff would issue audit**
16 **information requests and deal with the information**
17 **provided in response? And if you have described to**
18 **me the full extent of that knowledge, fine, we can**
19 **move on.**

20 A. Yes.

21 **Q. But if there is anything else specific that**
22 **you know of as to how those requests went out or once**
23 **the information was received in response, what the**
24 **staff did with it, please tell me.**

25 A. I can't think of anything.

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1 Q. Okay. Was it your expectation of the staff
2 that they would inform you of significant information
3 received in response to audit information requests?

4 A. In their discretion, I would think so. I
5 would rely on their discretion.

6 Q. But it's certainly the case, to your
7 understanding, that if information was provided in
8 response to an audit information request, that the
9 staff, at least, was familiar with that information?

10 A. Yes.

11 Q. Okay. So let's look at a couple of pages in
12 the document that I have given to you.

13 A. Okay.

14 Q. Do you see on the very first page of the
15 presentation that it indicates, "The information
16 contained herein is an estimate based on assumptions
17 and facts known to the contractor at this point in
18 time"?

19 A. I read that yes, sir.

20 Q. Then on page three of the presentation lists
21 certain key assumptions for the revised estimate
22 that's described here, correct?

23 A. The heading is "Key Assumptions for Revised
24 Estimate."

25 Q. Were you aware of any of these assumptions

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1 that related to Westinghouse's 2014 estimate at
2 completion?

3 A. I wasn't aware of this document.

4 Q. But the staff would have been because the
5 staff reviewed the information provided in response
6 to audit information requests, correct?

7 A. I think this came from the staff, did it
8 not? Well, a response back to them.

9 Q. So you would have expected that the staff
10 was aware, as this document conveys, that the
11 estimate completion provided by the consortium to
12 SCE&G was dependent on productivity factors that were
13 assumed to improve going forward?

14 A. Is that on this list?

15 Q. Number seven.

16 A. And assumed improvements going forward, is
17 what it says.

18 Q. So the staff would have known at the time
19 that the estimate completion provided by the
20 consortium in 2014 depended on assumed improvements
21 in productivity factor?

22 A. That's what it said.

23 Q. Did you know that?

24 A. I don't know that I knew it in 2014. In
25 2016, I think Mr. Jones testified that, without

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1 improvements in productivity factors, there was a
2 risk that they wouldn't meet the tax credit. But I'm
3 not familiar with it back in 2014, I don't think I
4 am. Now, there might be something in those letters
5 they put in there that I don't remember.

6 **Q. In 2014, you didn't know that the consortium**
7 **had assumed improvements in productivity factors in**
8 **the estimate completion it provided?**

9 A. I don't remember that now. Like I said, you
10 know, the staff helped me with those letters, and
11 there might be something in the letter to -- to the
12 PERC signed by me that says that, but I don't recall
13 that.

14 **Q. Okay.**

15 A. But it may well be that, and it may be in
16 one of those letters, I just don't know. It's just
17 hard to remember all of this of 2014.

18 **Q. Let's look at page 28 of this document.**

19 A. Okay.

20 **Q. You see the title of this slide is "Craft**
21 **Productivity"?**

22 A. Yes.

23 **Q. You see that it indicates the, "Current PF**
24 **equals 1.41," second bullet?**

25 A. I see the second bullet, yes, sir.

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1 Q. You know what PF is, don't you, Mr. Scott?

2 A. Productive -- productivity factor?

3 Q. Yeah. Is that consistent with your
4 understanding in the 2015 time frame that PF, as it
5 relates to the project, is productivity factor?

6 A. The PF meant productivity factor?

7 Q. Yes, sir.

8 A. I don't know that I knew in 2014 but I did
9 learn it.

10 Q. The productivity factor of 1.41, did you
11 know that the inception to date productivity factor
12 in 2014 for the project was 1.41?

13 A. I didn't -- I wouldn't have known that. I
14 don't think. It might be in one of the letters, but
15 I don't have any recollection of knowing.

16 Q. But the staff certainly knew it because the
17 staff received this document?

18 A. The staff must have known it, yeah.

19 Q. Do you have any idea as to the assumed
20 productivity factor for the project from this point
21 forward?

22 A. No, sir.

23 Q. Let's look at the last bullet on this page.

24 A. I got that.

25 Q. "ETC PF of 1.15."

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1 A. Yes, sir.

2 Q. **"To be realized through gradual improvements**
3 **over a six-month period."**

4 Do you see that?

5 A. I read that, yes.

6 Q. **So does that convey to you that the estimate**
7 **to completion, as described in this presentation,**
8 **assumed improvements in the productivity factor so**
9 **that that factor would get to 1.15 over six months?**

10 A. Based on what I know today -- I don't know
11 that I would have known that then, but based on what
12 I know today, I believe that you're correct.

13 Q. **And the reason you didn't know that then is**
14 **because you don't ever remember seeing this document,**
15 **right?**

16 A. I don't remember seeing it.

17 Q. **But you would have expected the staff to**
18 **understand it?**

19 A. Well, staff understood it.

20 Q. **Don't you, based on the information that you**
21 **knew the staff had, wouldn't it have been possible**
22 **for the staff to determine whether the consortium had**
23 **met a 1.15 performance factor within six months of**
24 **2014?**

25 A. I don't know.

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1 **Q. You don't know whether or not the staff**
2 **received monthly reports showing the productive**
3 **factor for the prior 30-day period?**

4 A. Now, that sounds like a different question.
5 I thought you had asked me if they could calculate
6 it. That's not what you asked me?

7 **Q. No. Do they know.**

8 **So are you familiar with the fact that the**
9 **staff received reports on a monthly basis reflecting**
10 **the productivity factors for the prior month's**
11 **period?**

12 A. I wasn't consciously aware of it at the time
13 but I would expect they probably did, yes, sir.

14 **Q. So then you would have expected that the**
15 **staff could determine whether this 1.15 promised**
16 **product productivity factor was met within six months**
17 **of August 2014?**

18 A. I don't know. I mean, it seems reasonable
19 to me but I don't know what staff would --

20 **Q. Did you know by May 2015 whether the**
21 **consortium had met this commitment?**

22 A. No, sir.

23 **Q. Does that seem significant to you?**

24 A. Seems significant now.

25 **Q. Would you have expected the staff to be**

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1 **paying attention to that?**

2 A. I'm sure they were.

3 **Q. Would you have expected the staff to inform**
4 **you if the promised productivity factor hadn't been**
5 **met?**

6 A. I would expect them to use their discretion
7 to see whether that was a big enough issue to do it.
8 But I would leave it to their discretion. And I
9 think they probably -- I mean, they may have. I
10 don't know.

11 **Q. But you don't know. So sitting here today**
12 **in 2018, you don't know whether the staff told you**
13 **that?**

14 A. I don't -- I don't know in 2014 whether they
15 told me that.

16 **Q. Do you believe the staff served you well?**

17 A. Yes, sir.

18 **Q. But you can't recall whether or not they**
19 **told you whether this promised productivity factor**
20 **was met?**

21 A. I can't recall that.

22 **Q. So that fact, whether they told you, is**
23 **immaterial to you saying that the staff served you**
24 **well; is that right?**

25 A. You have got a way with words. I don't know

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1 that it's immaterial, but I'll tell you, I believe
2 staff overall did a great job for me. I don't think
3 I'm out of a job because of what the staff did.

4 (Exhibit No. 8 was marked for
5 identification.)

6 **Q. I'm going to show you what you I have marked**
7 **as Exhibit 8.**

8 A. Yes, sir.

9 **Q. It's another Response to an Audit**
10 **Information Request.**

11 A. Yes, sir.

12 **Q. Are you familiar with this particular**
13 **document?**

14 A. No, sir.

15 **Q. Do you believe that you would have seen this**
16 **document in 2015?**

17 A. No, sir.

18 **Q. But it is your understanding that the staff**
19 **would have received and reviewed this particular**
20 **document, correct?**

21 A. If this is what it purports to be, I would
22 think they would.

23 **Q. So did you know -- if you flip to the third**
24 **page of this document, the question and the response.**
25 **Do you see that?**

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1 A. The third page?

2 **Q. Yeah, you're on it, right there.**

3 A. Okay. Yeah, say that again?

4 **Q. Yeah. Did you know the substance of what's**
5 **conveyed in the first three sentences?**

6 A. Question number one?

7 **Q. And the Response to question number one.**

8 A. I have read the first several sentences.

9 **Q. Did you understand that in 2015?**

10 A. I don't think so. I mean, I have never seen
11 this -- I don't think I have seen this document nor
12 do I remember such a conversation.

13 **Q. So you don't remember the staff informing**
14 **you that the consortium represented that it will**
15 **improve the productivity factor from current level to**
16 **1.15?**

17 A. I don't remember it, but that doesn't -- I
18 mean, we have a lot of conversations, we're going
19 back four years or so, it's hard to remember these
20 things.

21 **Q. And you don't recall whether or not the**
22 **staff informed you that SCE&G had told it, based upon**
23 **productivity factors achieved to date on Units 2 and**
24 **3, SCE&G has had frank discussions with the**
25 **consortium about achieving the improved productivity**

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1 **factor of 1.15?**

2 A. I don't recall that. Believe me, I mean,
3 it's been four years, and it's been a hard
4 year-and-a-half.

5 Q. Okay. Nor do you recall, as we sit here
6 today, that SCE&G informed the staff that SCE&G
7 believed that it would be speculative to use a
8 different productivity factor than what the
9 consortium had provided?

10 A. I don't recall that being discussed.

11 Q. Nor did you know that SCE&G informed the
12 staff that SCE&G does not believe it is appropriate
13 or in the best interest of SCE&G and its customers to
14 suggest to the consortium that it should not make
15 every effort to meet its commitment to improve labor
16 productivity?

17 A. I don't recall that. Now, it may be in one
18 of those letters or it may be somewhere else, but I
19 don't remember that with the years gone by.

20 Q. So you understand this audit information
21 request related to the matters pending in the 2015
22 docket; isn't that right?

23 A. Sir?

24 Q. You understand that the audit information
25 request that I have handed to you related to matters

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1 **pending in the 2015 docket; is that right?**

2 A. I don't -- I guess.

3 **Q. Well, just look at the title to the**
4 **document, the very first page of it.**

5 A. Yes, it says that here, yeah.

6 (Exhibit No. 9 was marked for
7 identification.)

8 **Q. I have handed you what I have marked as**
9 **Exhibit 9 to your deposition.**

10 A. Uh-huh.

11 **Q. This is a Settlement Agreement entered into**
12 **related to the matters pending in the 2015 docket,**
13 **right?**

14 A. Yes, sir.

15 **Q. Would you have reviewed the Settlement**
16 **Agreement before it was executed and presented to the**
17 **Commission?**

18 A. I would have known about it. Now, whether I
19 read the document or not, not necessarily.

20 **Q. Whose responsibility was it to review the**
21 **substance of the Settlement Agreements the ORS**
22 **entered into with the utility?**

23 A. Now, I would have known the general
24 parameters of it because I was involved with it, but
25 I didn't -- I am not the one that would have read it

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1 to make sure it did what we said it did.

2 Q. So then you would have known that the
3 parties to the Settlement Agreement, which includes
4 the ORS, agreed that the modified construction
5 schedule and capital cost schedule are not the result
6 of imprudence by SCE&G and are fully consistent with
7 the requirements of the BLRA; is that right?

8 A. I am not surprised it's in there. I don't
9 know that I saw it.

10 Q. But that's consistent with your
11 understanding as to the conclusions the ORS reached
12 in 2015?

13 A. That wouldn't be -- that would be consistent
14 with what they --

15 Q. And this --

16 A. I think that would be consistent. I would
17 hope it would be. Go ahead.

18 Q. Okay. And this Settlement Agreement was
19 entered into after the ORS had exercised its rights
20 and fulfilled its responsibilities under South
21 Carolina law to monitor the status of the project,
22 and to request and review substantial amounts of
23 relevant financial data from the company auditing the
24 quarterly reports submitted by the company,
25 inspecting the books and records of the company, and

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1 **reviewing in detail SCE&G's requests as described in**
2 **the 2015 docket, right?**

3 MR. LIGHTSEY: Object to the form.

4 THE WITNESS: That's a long --
5 that's a long list of questions, but it would
6 have been after we'd done monitoring.

7 BY MR. CHALLY:

8 **Q. The monitoring and the collection and review**
9 **of significant information related to the docket?**

10 A. I would think so.

11 **Q. Are you aware in 2014 that the consortium**
12 **was in the midst of re-baselining its schedule?**

13 A. I don't know that I was. I do know I have
14 heard that term "re-baselining" before in this case.

15 (Exhibit No. 10 was marked for
16 identification.)

17 **Q. Okay. I have just handed you what I have**
18 **marked as Exhibit 10 to your deposition.**

19 A. Yes, sir.

20 **Q. This is -- are you familiar with this**
21 **document?**

22 A. I am familiar that at one point we did have
23 a review of their quarterly report.

24 **Q. And this is a review that you provided to**
25 **the Commission?**

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1 A. ORS provided it.

2 **Q. Fair enough.**

3 **Did ORS provide it to the Commission --**

4 A. Yes, sir.

5 **Q. -- regarding the status of construction,**
6 **right?**

7 A. Yes, sir. That's my understanding is what
8 we did. I didn't personally provide it or personally
9 write it.

10 **Q. But you were familiar with the contents of**
11 **this particular document?**

12 A. Not -- I mean, I guess the answer to that
13 is, no, I didn't read it before it went out.

14 **Q. You didn't read these reports before they**
15 **went to the Commission?**

16 A. No, sir.

17 **Q. Who was responsible for reading the reports**
18 **before they went to the Commission?**

19 A. Well, I think the NND prepared them, and
20 then I think the lawyers reviewed them.

21 **Q. Did you have any awareness of the substance**
22 **of what was contained in these reports?**

23 A. Yes, yes, sir. I mean, I think the answer
24 to that is yes. I mean, I would assume the substance
25 of what we found and report on what we found.

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1 **Q.** So then you were aware in 2014 that the
2 consortium had indicated to SCE&G that the
3 substantial completion date of Unit 2 and Unit 3 were
4 expected to be delayed?

5 A. Not based on this report, but I did have --
6 ORS did report to us that there was a scheduling
7 issue, but I also think they said they haven't
8 accepted it yet, so we --

9 **Q.** Right. So if you flip with me to page one
10 of this Executive Summary.

11 A. Okay.

12 **Q.** See the very first sentence of the second
13 paragraph after "Approved schedule review", it says,
14 "SCE&G reports to ORS that a revised fully integrated
15 construction schedule will be available in the third
16 quarter of 2014."

17 A. Okay, now, where is that?

18 **Q.** First sentence in the second paragraph.

19 A. Oh, second. Okay. The second paragraph
20 starts "As previously"?

21 **Q.** No. Second paragraph after "Approved
22 schedule review."

23 A. Oh, okay.

24 **Q.** Okay. Do you see that?

25 A. I read what you say, yes.

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1 **Q. So the ORS was informed that the consortium**
2 **was engaging in a re-baselining of the schedule and**
3 **that SCE&G was expecting to receive a revised fully**
4 **integrated construction schedule in the third quarter**
5 **of 2014?**

6 MR. LIGHTSEY: Object to the form.

7 THE WITNESS: I don't know about
8 the first part, but it does say that SCE&G is
9 expecting, available in the third quarter
10 of 2014. That's what it says. It doesn't say
11 that first part of your question.

12 BY MR. CHALLY:

13 **Q. Look with me to the appendix.**

14 A. Appendix A?

15 **Q. Yes, sir. These are certain letters that**
16 **are attached to this report. The first is a**
17 **March 20, 2014 letter to the Commission sent by**
18 **Shannon Hudson. Do you see that?**

19 A. I think I'm at it now, yes, sir.

20 **Q. So prior to 2014, are you aware that the ORS**
21 **was receiving monthly updates regarding construction**
22 **progress from the consortium?**

23 A. It wouldn't surprise me to know that. I
24 don't know that I had actual knowledge of that in
25 2014.

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1 **Q. Who would have been responsible for**
2 **interacting with the consortium to receive the**
3 **schedule information?**

4 A. The NND department.

5 **Q. Who specifically?**

6 A. New Nuclear Development Department, I would
7 think.

8 **Q. Who specifically?**

9 A. Anthony James, as head of it.

10 **Q. Okay. And the ORS --**

11 MR. LIGHTSEY: Excuse me, I am not
12 sure the witness is looking at the same letter
13 that you're looking at.

14 THE WITNESS: This one?

15 MR. LIGHTSEY: First one after
16 the --

17 BY MR. CHALLY:

18 **Q. March 20.**

19 A. Oh, yeah, okay. I'm looking at the second.
20 I'm sorry.

21 **Q. So as this March 20 letter conveys, the ORS**
22 **was aware that the consortium was no longer going to**
23 **participate in these monthly schedule-related**
24 **meetings; is that right?**

25 A. Yes, sir, I think that's what this letter

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1 says.

2 **Q. And you're familiar with that fact?**

3 A. Yes, sir.

4 **Q. That's a letter dated March 20, 2014. And**
5 **then the ORS followed up on that letter on May 19,**
6 **2014, and that's the second letter that's attached.**

7 A. Yes, sir. That was the one I was looking at
8 earlier.

9 **Q. Do you recall how this issue that was**
10 **described in the March 20 letter was ultimately**
11 **resolved?**

12 A. No, sir.

13 **Q. Flip to the third letter.**

14 A. Yes, sir.

15 **Q. Which is a letter to you from Steve Byrne.**

16 A. Yes, sir.

17 **Q. Do you know who Steve Byrne is?**

18 A. Yes, sir.

19 **Q. Do you recall receiving this letter in May**
20 **of 2014?**

21 A. I don't recall it, but that don't mean I
22 didn't get it. I mean, obviously I got it, but I
23 don't recall the letter.

24 **Q. And you would have received this**
25 **information, and particularly considering that you,**

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1 the ORS, provided it to the Commission, it would have
2 reviewed and understood the contents that were
3 described in the letter, right?

4 A. Please repeat that question?

5 Q. So you received this letter, and
6 particularly considering the fact that the ORS
7 provided it to the Commission, the ORS would have
8 understood the contents of the letter sent to you?

9 A. Somebody would have.

10 Q. But you're not sure whether you understood
11 all of the information that was described in the
12 letter?

13 A. Probably not.

14 Q. Does this letter convey to you that there
15 was a re-baselining of the schedule ongoing in 2014?

16 A. Where is that in here?

17 Q. The second page. "During the fourth quarter
18 of 2013, the consortium began a full re-baselining of
19 the Unit 2 and Unit 3 construction schedules."

20 A. That's what it says, yes, sir.

21 Q. All right. And you understood that this
22 re-baselining was anticipated to be complete in the
23 third quarter of 2014; is that right?

24 A. Where is that coming from?

25 Q. In that same paragraph. "Based on

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1 **representations from the consortium, SCE&G**
2 **anticipates that the revised fully integrated**
3 **construction schedule" --**

4 A. Then that's what it says, yes, sir.

5 Q. And then following receipt of that, SCE&G
6 **had plans to re-evaluate and reschedule its owner's**
7 **cost estimates and cash flow requirements in light of**
8 **that schedule, right?**

9 A. I don't know where that is in here but it
10 must be.

11 Q. It's the very next sentence.

12 **Also, do you recall independently that SCE&G**
13 **objected to the consortium cutting off the monthly**
14 **reviews of the project schedule?**

15 A. I don't -- I don't remember that.

16 (Exhibit No. 11 was marked for
17 identification.)

18 Q. I am handing you what I have marked as
19 **Exhibit 11. This is a letter sent to Phil Asherman**
20 **and Danny Roderick. Do you know who Phil Asherman**
21 **and Danny Roderick are?**

22 A. I mean I can read it, but other than that I
23 don't know who they are.

24 Q. So you don't remember that they were the
25 **president -- Mr. Asherman was the President and CEO**

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1 **of CB&I and Mr. Roderick was the President and CEO of**
2 **Westinghouse?**

3 A. I don't -- I don't remember that. I
4 didn't -- I don't think we had direct -- I didn't
5 have direct correspondence.

6 **Q. All right. This is a letter sent by Lonnie**
7 **Carter and Kevin Marsh --**

8 A. Right.

9 **Q. -- to the CEOs of CB&I and Westinghouse on**
10 **May 6, 2014.**

11 A. Yes.

12 **Q. Do you recall seeing this letter before?**

13 A. No, sir, I do not recall seeing this letter
14 before.

15 **Q. Do you know whether or not you received this**
16 **letter before?**

17 A. It doesn't indicate that I did and I sure
18 don't think I did.

19 **Q. Why do you not think that you received this**
20 **letter?**

21 A. Because I don't remember it. I'm not
22 showing getting a copy of it.

23 **Q. All right. Now if we go back to the prior**
24 **exhibit that I had showed you, this one.**

25 A. Okay.

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1 **Q. We have, the very first letter in Appendix A**
2 **is a March 20 letter, right?**

3 A. I'm trying to get back to it because I was
4 on the wrong letter before. Appendix A, March 20
5 letter.

6 **Q. The second letter is a May 19 letter. Do**
7 **you see that?**

8 A. Yes, sir.

9 **Q. Is it your testimony that the May 6, 2014**
10 **letter had no impact on the conclusions that the ORS**
11 **reached in the May 19, 2014 letter?**

12 MR. LIGHTSEY: I object to the
13 form.

14 THE WITNESS: I don't know. I
15 have never seen -- not to my knowledge, and I am
16 going by memory, but I think I would remember
17 that one. But to my knowledge I have never seen
18 it. I don't think staff did either, but I don't
19 know that.

20 BY MR. CHALLY:

21 **Q. In May 19, 2014, Ms. Hudson writes to the**
22 **Public Service Commission in the third paragraph that**
23 **"SCE&G has been responsive in addressing our**
24 **concerns."**

25 Do you see that?

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1 A. Yes, sir.

2 **Q. Are you familiar with how specifically SCE&G**
3 **was responsive in addressing concerns?**

4 A. No, sir.

5 **Q. You have no memory of this at all?**

6 A. I have a -- I have a memory of the temporary
7 suspension of the monthly schedule. I don't have
8 a -- I don't have a memory of how specifically they
9 were in responding. Now, she says specifically and
10 went on, but I am not familiar with that.

11 **Q. Do you remember any other correspondence or**
12 **communications with SCE&G in March, April and May of**
13 **2014 regarding the re-baselining of the schedule?**

14 A. I don't remember any communications I had
15 with them.

16 **Q. But at least as Ms. Hudson is describing to**
17 **the Commission in this May 19 letter, the ORS had no**
18 **issue with the current status of the schedule**
19 **information it was receiving in May of 2014, right?**

20 A. I'm not sure they had no issue with it, but
21 she certainly says that -- what it says, it says, but
22 I don't know whether "no issue" is correct.

23 **Q. No issue that it thought it needed to inform**
24 **the Commission to take further action on it; is that**
25 **right?**

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1 A. Well, they don't ask them to take further
2 action on it, that I know of.

3 (Exhibit No. 12 was marked for
4 identification.)

5 **Q. I'm handing you what I have marked as**
6 **Exhibit 12 to your deposition.**

7 A. Yes, sir.

8 **Q. Have you seen this document before?**

9 A. Not to my knowledge.

10 **Q. It's another report provided to the Public**
11 **Service Commission related to ORS's monitoring of**
12 **project, right?**

13 A. I think it's a review of SCE&G's quarterly
14 report.

15 **Q. Right. And the information was provided to**
16 **the Public Service Commission, right?**

17 A. I would think it would be. I didn't
18 personally provide it but I would think it would be.

19 **Q. Were you at all involved in the preparation**
20 **of this report?**

21 A. No, sir. "At all," you know, I am the
22 Executive Director, so "at all," it's under my
23 supervision but I didn't put any writings in it.

24 **Q. So at this time in July of 2015, the ORS was**
25 **aware of several ongoing concerns that create risk to**

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1 **the on-time completion of the units; isn't that**
2 **right?**

3 A. Where are you getting that from?

4 **Q. Page 15.**

5 A. Sir?

6 **Q. Page 15.**

7 A. Okay. Tell me what you're talking about.

8 **Q. What I am really asking you, Mr. Scott, is**
9 **whether you, as the Executive Director at the Office**
10 **of Regulatory Staff, were aware in 2015 that there**
11 **were construction challenges on the project.**

12 A. I would think that I would be generally
13 aware that there were construction challenges on the
14 project, but I don't -- I don't -- I wouldn't know
15 first-hand knowledge what those challenges are.

16 **Q. But whatever is reported here accurately, to**
17 **your understanding, reflects the information the ORS**
18 **had regarding the problems on the project; is that**
19 **right?**

20 A. It would -- it should reflect that. I don't
21 know in fact whether it does or not, but it should
22 reflect that, yes, sir.

23 **Q. Did you know, at this time, that SCE&G has**
24 **identified in its petition that the low productivity**
25 **of the construction workforce has increased the cost**

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1 of the project and that corrective measures have been
2 identified to improve this productivity, but the
3 impact of these directive measures is not yet known?

4 A. I don't know that I would be.

5 Q. Did you know that low productivity could
6 also affect schedule performance?

7 A. I learned that, but I'm not an engineer, so
8 I didn't know that, and I don't think -- I probably
9 didn't know it in 2014, 2015, but I learned it.

10 Q. Flip with me to page 17.

11 A. Yes, sir.

12 Q. Would you agree with me that the paragraph
13 entitled "Construction Productivity" conveys in sum
14 and substance what I just asked you?

15 A. I think it's consistent with what you said,
16 and it says what it says. The question is what it
17 is, but --

18 Q. So were you aware of this information when
19 the ORS decided to enter into a Settlement Agreement
20 in 2015?

21 A. I should have been. I don't know.

22 Q. The staff would have certainly been aware of
23 the information?

24 A. Right, and it certainly would have been
25 available to me.

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1 **Q. But you just think you didn't need more**
2 **information to agree to allow the Office of**
3 **Regulatory Staff to sign on to that Settlement**
4 **Agreement?**

5 MR. LIGHTSEY: Object to the form.

6 THE WITNESS: At the time, I
7 didn't. Now, I have come to -- I have come to
8 probably -- to realize now that it was more than
9 I knew and more than the staff knew, so --

10 But at the time we entered that
11 agreement, I thought it was based on what the
12 information we knew, including this, and the
13 mission of the ORS, the definition of public
14 interest, and the fact that we were working
15 toward a solution, a project that would be a
16 great benefit to the state. Remember we had
17 economic development and jobs, and we also had
18 financial integrity utility. I felt when you
19 took all that into consideration, that that -- at
20 that time -- at that time and space, and it
21 hadn't been in since 2012, and I thought the
22 overall project costs were in line.

23 In fact, it wasn't much what we
24 thought the project was going to cost in 2009
25 when it came in, they project the cost. Now, it

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1 wasn't because of great construction, but the
2 economy had been good to us. So I thought, in
3 taking all that into consideration, I thought at
4 the time, based on the then definition of public
5 interest and the fact that we were still -- we
6 were not in an adversarial position with SCE&G.
7 We had a lot of respect for SCE&G, a lot of
8 respect and, so I thought, overall, that this was
9 something that we needed to try to pursue.

10 BY MR. CHALLY:

11 **Q. Your concerns as -- the ORS's concerns, as**
12 **expressed in this document, continued following the**
13 **settlement of the 2015 docket, didn't they?**

14 A. Please say that again?

15 **Q. The concerns expressed in this document over**
16 **productivity continued even after resolution of the**
17 **2015 docket, didn't they?**

18 A. I think our concerns continued, yes, sir.

19 (Exhibit No. 13 was marked for
20 identification.)

21 **Q. I'm going to show you what I am handing you**
22 **as Exhibit 13. This is a letter from you to Byron**
23 **Hinson.**

24 A. Yes, sir.

25 **Q. Do you know who Byron Hinson is, right?**

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1 A. Yes, sir.

2 **Q. The address line for this letter indicates**
3 **that Byron Hinson is associated with SCANA Services,**
4 **Inc.**

5 A. Yes, that's what the address line is, yes.

6 **Q. Do you know what SCANA Services, Inc., is?**

7 A. Generally speaking, you know, you have
8 got -- and you probably know better than I do. But
9 you have got SCANA Holding, and it's a holding
10 company, and it owns SCE&G, it owns SCANA Services,
11 it may own some other, other things. But SCANA
12 Services is a, I think, a sub of SCANA.

13 **Q. Okay. And the ORS knew that in 2015, right?**

14 A. Yes, sir.

15 **Q. Did you write this letter?**

16 A. No, sir.

17 **Q. Okay.**

18 A. I mean, I didn't write it, I didn't -- no,
19 sir, I didn't write it. I signed it, I reviewed it,
20 but I wouldn't have known these bullet points.

21 **Q. Who wrote the letter?**

22 A. It's probably drafted by -- and of course,
23 I -- but, actually, December, it would have probably
24 been drafted by -- I think she was back by December
25 the 14th, 2015, so it probably would have been

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1 Ms. Powell along with Gary Jones and maybe some input
2 from Gene Soult.

3 **Q. Why would it have been sent?**

4 A. Why would it have been sent? I think they
5 suggested I send it.

6 **Q. Is that it; they suggested it so you agreed**
7 **to do it?**

8 A. Well, what we -- I think what we were trying
9 to do is keep -- get SCE&G informed of what we was
10 finding and making recommendations. Again, we had a
11 good relationship with them, we thought, in 2015.
12 They were a very well respected company. So what we
13 were trying to do is say these are some of the
14 issues, I think, so called, that the ORS has found.

15 **Q. And those issues include the ORS's belief**
16 **that the current schedule utilized overly-optimistic**
17 **assumptions; isn't that right?**

18 A. Is that on this letter?

19 **Q. It is.**

20 A. Please tell me where it is.

21 **Q. It's in the second page, number one.**

22 A. Where is the answer to your question? What
23 was your question?

24 **Q. Yeah, my question was whether or not the ORS**
25 **was aware in 2015 that the schedule utilized**

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1 **overly-optimistic assumptions.**

2 A. That's what it says, yes, sir.

3 **Q. Is this a topic that you discussed with**
4 **members of the ORS staff before you sent the letter?**

5 A. Well, they would have been the one to draft
6 the letter.

7 **Q. But is this a topic that you would have**
8 **discussed with the ORS staff before you sent the**
9 **letter?**

10 A. I don't know whether I sat down and
11 discussed the letter with them or not. They drafted
12 it and I provided it, but I don't know whether there
13 was a staff meeting on it.

14 **Q. Is this an issue about which you were**
15 **independently aware in 2015?**

16 A. Obviously not independently. I mean, I
17 would have been aware of it because the staff put it
18 in this letter, but I wouldn't have had independent
19 knowledge of it.

20 **Q. It looks like the staff also pointed out in**
21 **this letter that the increased labor productivity**
22 **rates necessary to obtain the completion dates for**
23 **the project have not been realized and no discernable**
24 **progress has occurred.**

25 A. Yes, sir.

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1 **Q. Is that a fact that you were familiar with**
2 **in late 2015?**

3 A. I was obviously familiar with it based on
4 this letter, but I didn't have independent knowledge
5 of it.

6 **Q. Was that concerning to you in 2015?**

7 A. Well, I wouldn't have put it in this letter
8 if it wasn't concerning.

9 **Q. And this is a way that you tried to make**
10 **clear your position and solicit additional**
11 **information from SCE&G regarding the status of the**
12 **project, right?**

13 A. I don't know whether I asked for additional
14 information or not, but it was an attempt to kind of
15 brief them on what we were finding.

16 **Q. All right. You knew though, did you not,**
17 **that the October 2015 amendment contained certain**
18 **provisions that were positive steps towards resolving**
19 **some of the issues described in this letter, right?**

20 MR. LIGHTSEY: Object to the form.

21 THE WITNESS: I think the fixed
22 price portion was an attempt to resolve some of
23 these issues.

24 BY MR. CHALLY:

25 **Q. Following the fixed price portion of the EPC**

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1 **amendment, were these issues of less concern to the**
2 **ORS?**

3 A. They were less concern at ORS. But after
4 the Settlement Agreement that we had, we were still
5 concerned about it but we thought we had the risk
6 pushed to SCANA and SCANA thought they had the risk
7 pushed to Westinghouse.

8 (Exhibit No. 14 was marked for
9 identification.)

10 **Q. Okay. I'm handing you what I have marked as**
11 **Exhibit 14.**

12 A. From Gary Jones to me, yes, sir.

13 **Q. Is this an example of a report that Gary**
14 **Jones provided to you following his March 29th and**
15 **30th, 2016 site visit?**

16 A. Right. I think that's what it is, yeah,
17 March 29th and 30th.

18 **Q. Did you request that he provide you this**
19 **written summaries?**

20 A. I think I did.

21 **Q. Did you review the written summaries when**
22 **they were provided?**

23 A. I mean, what I use these summaries for is to
24 write -- or to -- and Allyn used them -- to compose
25 the letters that went sometimes to SCE&G and also the

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1 PERC letters.

2 **Q. Did you review the information that was**
3 **contained --**

4 A. I would think -- I would have think -- I
5 would think that I would have read the letter, yes.

6 **Q. Okay.**

7 A. But I am not an engineer, so I don't have a
8 great understanding of some of this stuff.

9 **Q. Well, if you look at paragraph two,**
10 **Mr. Jones is informing you that SCE&G advised that,**
11 **due to concerns with the financial stability and**
12 **viability of Westinghouse's parent company, Toshiba,**
13 **they are pursuing design information escrow with**
14 **Westinghouse.**

15 A. That's what it says, and I do -- I mean, I
16 do remember that issue.

17 **Q. He is also informing you that Fluor and**
18 **Westinghouse were developing a productivity**
19 **improvement plan at this time.**

20 A. Please tell me where that is.

21 **Q. Number 1, e.**

22 A. 1, e.

23 **Q. E as in echo.**

24 A. Oh. They have developed a productivity
25 improvement plan, is what it says.

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1 **Q. So that's something you were familiar with**
2 **in 2016?**

3 A. I would have read this letter, so I would
4 think I would be familiar with it.

5 **Q. Was that important to you in 2016?**

6 A. Yes, sir.

7 **Q. Why was that important to you in 2016?**

8 A. Because productivity improvement was very
9 important. And this is saying that they have set
10 goals, and it gives me an idea that they were
11 planning, making plans, SCE&G was making plans, or
12 somebody was, to improve the productivity factor
13 which I thought would be very favorable, I thought.

14 **Q. So ORS had some optimism that there would be**
15 **significant improvement when Fluor came onto the**
16 **site; isn't that right?**

17 MR. LIGHTSEY: Object to the form.

18 THE WITNESS: I don't see where
19 that word is, but the paragraph says what it says
20 it says.

21 BY MR. CHALLY:

22 **Q. Okay. Paragraph four, sir, look at**
23 **paragraph 4.**

24 A. Paragraph 4?

25 **Q. "As a general observation, the work activity**

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1 level has definitely increased at the site and
2 progress is becoming more visible than previously
3 witnessed. The attitude of the workers has also
4 seemingly improved and was manifested by many
5 friendly greetings on our tour where previously this
6 was rarely the case. It is hope that this can be
7 carried through to improve the work environment and
8 increase productivity."

9 A. I agree that's what it says. And they liked
10 the idea that there was improvement in the friendly
11 greetings. That meant a lot to them.

12 **Q. That meant a lot to Mr. Jones?**

13 A. I think it must have because somebody
14 specifically mentioned it to me, I don't know whether
15 it was Mr. Jones, but that's what it says. It says
16 what it says.

17 **Q. And is this something, is this the sum and**
18 **substance what you are familiar with at the time;**
19 **that Fluor coming onto the project was viewed by the**
20 **ORS as a positive development?**

21 A. Yes, sir.

22 **Q. And everyone was optimistic that Fluor**
23 **coming onto the project would improve productivity?**

24 MR. LIGHTSEY: Object to the form.

25 THE WITNESS: I don't know about

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1 "everyone." I can't speak for "everyone." But I
2 thought Fluor coming on -- Flour -- I'm going by
3 memory, but I think Fluor constructed V.C.
4 Summer 1, and so I thought it was a -- I thought
5 it was a good step to have Fluor come on the
6 premises.

7 BY MR. CHALLY:

8 Q. Do you know what Mr. Jones reported to you
9 in his April site visit?

10 A. No, sir. I mean, I probably should know,
11 but I don't remember.

12 Q. You do know, do you not, that Mr. Jones and
13 the ORS staff continued to receive reports on
14 productivity at this time?

15 A. I think they did.

16 Q. And you do know that those productivity
17 reports did not reveal significant improvement in
18 productivity, right?

19 A. I am not specifically aware of that but I
20 think that's true.

21 Q. And the concerns over productivity were so
22 significant that Mr. Jones warned you that there
23 is -- if there is to be any chance of meeting project
24 completion dates, significant improvement in
25 productivity needed to be achieved in April of 2016?

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1 A. I think he did inform me that productivity
2 factor needed to be improved.

3 **Q. Do you recall informing the Commission of**
4 **that fact?**

5 A. He testified to that fact, I think.

6 **Q. Do you recall informing the Commission of**
7 **that fact?**

8 A. Not me personally. I didn't testify.

9 **Q. You relied on Mr. Jones to convey that to**
10 **the Commission?**

11 A. He was the witness that testified to that.

12 **Q. So is it your understanding that the**
13 **Commission was accurately and -- accurately told that**
14 **productivity needed to be improved in order for the**
15 **project completion dates to be met in 2016?**

16 A. I think it's in his testimony, but his
17 testimony is there for the world to see. And I am
18 not looking at it, but I think he mentioned -- I
19 don't know whether he mentioned productive factors,
20 but he needed -- I think he said that they needed to
21 be improvements in the production, and he might have
22 used the word.

23 **Q. In May of 2016, the ORS became aware of what**
24 **it characterized as artificial constraints existing**
25 **in Westinghouse's schedule; isn't that right?**

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1 A. That's what I -- that's what staff wrote,
2 yes.

3 **Q. Okay. Let's --**

4 MR. LIGHTSEY: You've been a
5 little bit going over an hour. Is this a
6 convenient time to break?

7 MR. CHALLY: Sure.

8 MR. LIGHTSEY: Do you want to take
9 a break?

10 THE WITNESS: Probably should.

11 THE VIDEOGRAPHER: This concludes
12 media number three in the video deposition of
13 Dukes Scott. The time is 15:53. We're now off
14 the record.

15 (A recess was taken.)

16 THE VIDEOGRAPHER: Back on the
17 record. This is November 7, 2018. The time is
18 16:06. This is the beginning of media number
19 four in the video deposition of Dukes Scott.

20 (Exhibit No. 15 was marked for
21 identification.)

22 BY MR. CHALLY:

23 **Q. Okay. Mr. Scott, I'm handing you what I**
24 **have marked at Exhibit 15 to your deposition.**

25 A. Yes, sir.

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1 **Q. Have you seen this document before?**

2 A. I signed it so, yes, sir.

3 **Q. Okay. This is a letter to Kenny Jackson**
4 **from you, right?**

5 A. Yes, sir.

6 **Q. And what would have been the process for**
7 **preparing this document?**

8 A. Staff would have drafted the document and
9 put the information in here for me.

10 **Q. The very first -- why did you send this**
11 **letter as opposed to some member of the staff?**

12 A. I don't know.

13 **Q. Did you think it would have more weight if**
14 **you sent it?**

15 A. Well, I hate to think about that, but, I
16 mean, it wasn't a long thought process, I mean, it
17 just -- I did it.

18 **Q. Would you have had discussions with the**
19 **staff in advance about, we want to send a letter to**
20 **SCANA and we're going to get something to you, or**
21 **would it have been, Mr. Scott, here's a letter,**
22 **please review and sign it?**

23 A. No, sir, I think it would have been me
24 asking them for a letter to send to SCE&G.

25 **Q. And why would you have wanted to send a**

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1 **letter to SCE&G?**

2 A. Again, to keep them informed of what we were
3 finding. We were into 2016, we had an amendment to
4 get the contract approved, I think, September the
5 10th, 2015; October 27th, we had a brand new thing,
6 and I thought it was important to us to let them know
7 what we were finding since that period of time.

8 **Q. Did you believe you were finding things**
9 **about which SCE&G was unaware?**

10 A. I don't know that. They never -- I don't
11 know.

12 **Q. Why were you providing this information to**
13 **SCE&G and not the Commission in these letters?**

14 A. Well, you're limited on what you can send to
15 the Commission under the ex parte rule. So what we
16 were trying to do is monitor and do our job, and
17 that's what these letters were intended to do.

18 **Q. And if the information was significant**
19 **enough, you would provide commentary to the**
20 **Commission on it; isn't that right?**

21 A. Not necessarily. We would try to work
22 through it. But we wouldn't -- I mean, I hate to say
23 that because it sounds bad, but our job was to
24 monitor it and to try to work the thing through.

25 Now, in Mr. Jones' testimony in 2016, he

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1 and -- he would have provided the information he
2 thought was significant.

3 **Q. So you don't think the ORS had any**
4 **obligation to inform the Commission with information**
5 **it learned regarding the status of the project?**

6 MR. LIGHTSEY: I object to the
7 form.

8 THE WITNESS: You say "any
9 obligation." If I thought we had had an
10 obligation to do that, I would have done it. But
11 I didn't -- at the time, I didn't. I thought
12 that the contested case hearings on the
13 modification is where we provided that
14 information to the Commission.

15 BY MR. CHALLY:

16 **Q. Well, in 2016, there was a contested case**
17 **ongoing, wasn't there?**

18 A. I think, yes, sir, there was a contested
19 case in 2016.

20 **Q. And there was in 2015 as well, right?**

21 A. Yes, sir.

22 **Q. All right. So to the extent that you**
23 **uncovered significant information in 2015 or 2016,**
24 **you worked through providing that to the Commission,**
25 **right?**

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1 A. I think -- I think Mr. Jones' testimony
2 provided the information in 2016 that he thought was.

3 **Q. That he thought was significant or that you**
4 **thought was significant?**

5 A. It wasn't what I thought.

6 **Q. But you knew in 2016 that the ORS staff had**
7 **met with Westinghouse scheduling staff, right?**

8 A. That's in that letter and I signed the
9 letter.

10 **Q. And you learned in 2015 -- 2016, excuse**
11 **me -- that there were certain constraints in the**
12 **schedule used by Westinghouse, right?**

13 A. Please show me where that is. I am not
14 doubting you, but I just need to --

15 **Q. Well, I guess my first question to you,**
16 **Mr. Scott, is whether you are aware, sitting here**
17 **today, that in 2016 the ORS learned that there were**
18 **constraints in Westinghouse's schedule.**

19 A. Is it in this letter?

20 **Q. It is, but I'm wondering whether you know**
21 **independent of what this letter says.**

22 A. I don't -- independent of this letter, I
23 don't think I did.

24 **Q. So in Paragraph 1, the fourth sentence, "We**
25 **learned that the initial schedule presented by WEC in**

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1 **August 2015" --**

2 A. Yes, sir, I see that. I'm sorry, I
3 interrupted you.

4 **Q. That's fine. Who would have been in this**
5 **meeting with WEC project scheduling staff?**

6 A. I can't name the people because I don't know
7 who was in the meeting. But generally speaking, it
8 would have been, in this year, I think Allyn,
9 Ms. Powell, probably would be there, Mr. Jones would
10 probably be there, maybe Mr. Sault. I don't know
11 whether a lawyer would have been there or not.

12 **Q. The ORS was of the view in 2016 that the**
13 **schedule needed further refinement; isn't that right?**

14 A. Is that in this letter?

15 **Q. It is.**

16 A. I mean, if it's in this letter, then that's
17 right.

18 **Q. Are issues associated with the schedule and**
19 **its reliability in issues associated with**
20 **productivity stuff that sticks out in your mind as**
21 **relevant in 2016?**

22 MR. LIGHTSEY: Object to the form.

23 THE WITNESS: Sir?

24 BY MR. CHALLY:

25 **Q. Are issues related to schedule on the**

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1 **project things that stick out in your mind as**
2 **information you were focused on in 2016?**

3 A. I would think the schedule would be an
4 issue, yes, sir.

5 **Q. Were you focused on that in 2016?**

6 A. I think ORS was focused on it.

7 **Q. Were you?**

8 A. Well, I mean, I'm part of ORS, so --

9 **Q. But is this an issue you were delegating to**
10 **the staff, did it rise to your level?**

11 A. The schedule would have been at my so-called
12 level, I think.

13 MS. FICKLING: Jon, I'm getting
14 feedback of hearing issues.

15 (Off-the-record discussion.)

16 THE VIDEOGRAPHER: Off the record
17 at 16:14.

18 (Off-the-record discussion.)

19 THE VIDEOGRAPHER: Back on the
20 record at 16:16.

21 (Exhibit No. 16 was marked for
22 identification.)

23 BY MR. CHALLY:

24 **Q. I'm handing you what I have marked as**
25 **Exhibit 16. Are you familiar with this document,**

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1 **Mr. Scott?**

2 A. Yes, sir.

3 **Q. Would this document have been prepared in**
4 **the same way that the earlier letters to Byron Hinson**
5 **and Kenny Jackson were prepared?**

6 A. Yes, sir.

7 **Q. Which is you indicated you wanted to send a**
8 **letter to the company and then the staff put together**
9 **the text of the letter for you to send?**

10 A. Yes, sir.

11 **Q. And the information contained in the letter**
12 **is certainly information that the staff was aware of**
13 **at the time the letter was sent, right?**

14 A. I would think so.

15 **Q. And information that you were aware of or**
16 **had access to as of this time, right?**

17 A. By reading this letter, yes, sir.

18 **Q. Did you understand that the ORS was in a**
19 **heightened state of concern regarding the**
20 **construction cost overruns and schedule delays for**
21 **V.C. Summer?**

22 A. Yes, sir.

23 **Q. What brought you to that heightened state of**
24 **concern?**

25 A. I mean, the thing that's contained in this

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1 letter and the other letters that caused that
2 heightened state of concern. And depending -- I
3 think by now, the pending -- I knew about the -- it
4 might have been already pending. I don't know
5 whether the request for modification was June of 2016
6 or not, but I did know about the October 27th
7 amendment and that these things were going probably
8 with things that you mentioned, the schedule,
9 productivity factor, but I was aware we were in a
10 heightened concern.

11 **Q. So is the sum and substance of these letters**
12 **the same sort of information you were describing to**
13 **the PERC on a monthly basis?**

14 A. Yes, sir. Generally speaking. I mean, I
15 think you'll probably find -- may find this letter.
16 But generally speaking, I was providing it to PERC,
17 yes.

18 **Q. Why did you feel it was important to provide**
19 **that information to PERC?**

20 A. Because I looked at them as bosses. They
21 were my bosses. I was trying to keep them informed
22 on what we were doing.

23 **Q. You were providing the information on a**
24 **monthly basis to PERC but you were not providing the**
25 **information on a monthly basis to the Commission?**

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1 A. That's correct.

2 **Q. Why is that?**

3 A. Because PERC was my bosses, and there is no
4 ex parte provision with PERC.

5 **Q. So those letters were public, though,**
6 **weren't they?**

7 A. I would think so.

8 **Q. Letters to the PERC?**

9 A. Yes, sir.

10 **Q. Okay.**

11 A. Some of them might even be on our website --
12 not my website, ORS's website.

13 **Q. In any event, these issues weren't secrets**
14 **to you; they were known, apparent --**

15 A. No, sir, I mean, they -- no, sir, they
16 weren't secret.

17 **Q. And then of the information that you thought**
18 **significant, you conveyed to the Commission in the**
19 **contested case proceedings that were in 2016?**

20 A. I think staff -- I did not prepare the
21 testimony or actually review it and read it, but I
22 think staff did.

23 **Q. And many of these concerns that you**
24 **expressed as evidence in this letter were resolved**
25 **with the decision to exercise the fixed price option;**

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1 **isn't that right?**

2 A. Under certain conditions.

3 **Q. What do you mean by "under concern**
4 **conditions"?**

5 A. Well, the fact that they had an agreement
6 with Westinghouse, SCE&G had an agreement with
7 Westinghouse, to fix, I think it's about 98 percent
8 of the EPC contract costs, was not sufficient. So
9 under the condition that SCE&G would stand behind the
10 fixed price and not come in for a budget increase as
11 to those items that were contained in the fixed price
12 portion, we believed that the Settlement Agreement,
13 along with the other terms was -- I mean, it was a
14 path forward that we hopefully could get the thing
15 completed and get it completed with -- at the fixed
16 price cost.

17 **Q. Okay. So with all of this knowledge, with**
18 **all of the knowledge the ORS had at this time, the**
19 **ORS was also aware of the fact that SCE&G had**
20 **requested approval of a rise schedule and cost as**
21 **reflected in the October 2015 amendment to the EPC**
22 **agreement, right?**

23 A. Yes.

24 **Q. And that included moving the guaranteed**
25 **substantial completion dates for Units 2 and 3; isn't**

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1 **that right?**

2 A. Yes, sir.

3 **Q. And it also involved request for approval of**
4 **the fixed price option in the 2015 amendment, right?**

5 A. Subject to the terms of the Settlement
6 Agreement.

7 **Q. Did you understand at this time that there**
8 **was at least the risk that Westinghouse would not**
9 **carry through on its commitment in the fixed price**
10 **agreement?**

11 A. I know that -- I think Mr. Jones asked a
12 question about that, could they stand that, and I
13 think the response was, yes. But, I mean, we didn't
14 know the seriousness of the financial issues at this
15 time.

16 **Q. The seriousness of what financial issues?**

17 A. That Westinghouse was going to go bankrupt
18 in March.

19 **Q. You didn't know Westinghouse was going to go**
20 **bankrupt but you knew of the possibility of**
21 **Westinghouse not carrying through on its commitment?**

22 A. And that's why we wanted SCE&G to agree that
23 they wouldn't come back in for a budget increase,
24 because we didn't have -- we had confidence in SCE&G,
25 but we didn't have the confidence in Westinghouse.

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1 So we got SCE&G to take the risk that -- of what we
2 thought took the risk off the customers.

3 **Q. But you knew that Westinghouse at this time**
4 **was voicing its deep commitment to completing the**
5 **project; isn't that right?**

6 A. Sir?

7 **Q. You knew that Westinghouse was voicing its**
8 **deep commitment to complete the project, right?**

9 A. I don't know how deep the commitment was but
10 I think they were committed, seemed to be committed.

11 **Q. Are you familiar with the fact that**
12 **Mr. Jones conveyed to you that he understood**
13 **Westinghouse had a deep commitment to complete the**
14 **project?**

15 A. He may have. I don't know.

16 **Q. That's not inconsistent with your**
17 **understanding of the facts at the time?**

18 A. Not inconsistent; I just don't remember him
19 using those words or saying that, I just don't have
20 any memory of it.

21 (Exhibit No. 17 was marked for
22 identification.)

23 **Q. This is Exhibit 17. This is an e-mail**
24 **exchange between Jimmy Stewart and Iris Griffin. Do**
25 **you know who Iris Griffin is, don't you?**

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1 A. Yes, sir. I don't know who Jimmy Stewart
2 is.

3 **Q. Jimmy Stewart is a Manager of Investor**
4 **Relations, Southern Company.**

5 **Do you recall participating in a conference**
6 **call with certain analysts where you provided your**
7 **ideas as to the status of the V.C. Summer project?**

8 A. Not so much the status of the V.C. Summer
9 project but the process, the regulatory process that
10 they went through, yes, sir. And I usually had staff
11 members in there.

12 **Q. Do you recall conveying to analysts around**
13 **this time that there were certain risks due to**
14 **financial issues at Toshiba?**

15 A. There was a time when they asked me. I
16 didn't have a report from them. They'd call and
17 they'd want to meet to have a call with the ORS staff
18 and I'd get the staff members in there.

19 They'd ask me, some of them asked me, I
20 think in January of 2017, was it a concern of ours.
21 And, of course, that was after, and the answer was
22 yes.

23 **Q. But you told analysts, did you not, that the**
24 **ORS believed Westinghouse and Toshiba's committed to**
25 **completing the project?**

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1 A. I probably did, because that was our
2 understanding.

3 **Q. And you thought, notwithstanding these**
4 **risks, that Westinghouse's commitment was sufficient**
5 **to allow for the -- to justify the exercise of the**
6 **fixed price option?**

7 A. I don't remember telling the financial
8 people that.

9 **Q. But that was your view at the time, right?**

10 A. It was my view that the Settlement Agreement
11 was in the public interest.

12 **Q. Right. And the exercise to the fixed price**
13 **option was also in the public interest?**

14 A. If we could make sure that SCE&G would
15 so-called back it.

16 **Q. As you did in the Settlement Agreement.**

17 A. As we tried to do in the Settlement
18 Agreement.

19 **Q. Right. And that was true, notwithstanding**
20 **the fact that you knew there could be a risk of**
21 **Westinghouse and Toshiba not being able to complete**
22 **the project?**

23 A. I don't know that I was -- I mean, I guess
24 there is always risk that they did, but I don't
25 remember that being an issue at this time.

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1 (Exhibit No. 18 was marked for
2 identification.)

3 **Q. Do you recall -- I have handed you what I**
4 **have marked as Exhibit 18, which is an e-mail**
5 **exchange involving you and some others, and it**
6 **attaches a draft letter to Representative Forester.**
7 **Do you see that?**

8 A. Yes, sir.

9 **Q. Who is Representative Forester?**

10 A. He is a member of the House of
11 Representatives, he is on the PERC, and he is our
12 Subcommittee Chair.

13 **Q. All right. And what led to the creation of**
14 **this draft letter, if you recall?**

15 A. I don't know.

16 **Q. If you look at the draft letter, it**
17 **indicates that Mr. Forester had raised a question**
18 **regarding SCE&G completing the construction of Unit 2**
19 **and 3 should Westinghouse be unavailable to do so.**

20 A. Please say that again, and where are you
21 talking about?

22 **Q. Second to last page of the document, the**
23 **very first sentence of the letter.**

24 A. Yes, sir. "This letter is a follow-up," is
25 that what you --

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1 **Q. Yes, "This letter is a follow-up on your**
2 **question."**

3 A. That's what it says, yes.

4 **Q. Do you recall Mr. Forester questioning you**
5 **regarding SCE&G completing the construction of V.C.**
6 **Summer Units 2 and 3?**

7 A. I don't recall that, but, you know, the
8 letter would indicate that he may have.

9 **Q. And you indicate, do you not, that the**
10 **question is of concern to ORS as well?**

11 A. Yes, sir.

12 **Q. And that concern, ORS was addressed, as you**
13 **say, in this letter by the fact that Westinghouse has**
14 **indicated to SCE&G that Westinghouse is committed to**
15 **finishing the units?**

16 A. Yes, sir.

17 **Q. And then you indicate that the ORS had**
18 **specific conversations with Westinghouse, right?**

19 A. Yes, sir.

20 **Q. Do you recall who had those conversations?**

21 A. Well, there was actually a meeting, and I
22 don't -- you're going to ask me the day, I don't
23 remember the date, but there was a meeting with a
24 representative from Westinghouse, I think it was
25 Senior VP and the Manager out there, SCE&G was there,

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1 Fluor Daniel had a representative there, the Co-ops
2 had a representative there, Central probably did, and
3 the Energy Users Committee had a lawyer there in
4 which they indicated at that meeting that they were
5 committed to it.

6 And then I think there was probably other
7 conversations that I wasn't invoiced with, but I was
8 at that meeting, along with, I think, Gary and
9 Ms. Powell, Jeff Nelson and General Counsel of the
10 Office of Regulatory Staff and the others that I
11 named were there.

12 **Q. Do you recall the purpose for that meeting?**

13 A. Yes, sir; to inquire about the status of the
14 project.

15 **Q. And were you able to ask whatever questions**
16 **you thought appropriate of Westinghouse?**

17 A. Well, the guy did leave earlier than we
18 thought. But I didn't have any questions. I think
19 Mr. Nelson did. Whether he got to ask them all, I
20 don't know. And I don't know about Mr. Elliott and I
21 don't know about the Co-ops. I don't know.

22 **Q. And your understanding is that Westinghouse**
23 **expressed a commitment to complete the project?**

24 A. That's my memory, yes.

25 **Q. Do you recall anyone from Westinghouse**

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1 **describing the V.C. Summer was a lost leader for**
2 **Westinghouse?**

3 A. I never heard that term.

4 **Q. Do you recall Westinghouse describing future**
5 **AP 1000 projects Westinghouse was planning in other**
6 **places?**

7 A. Not specifically plans. They talked
8 about -- I think they talked about that this is --
9 they needed to finish the ones they had going on
10 because this was going to be part of their business
11 plan for the future. They were constructing one in
12 China at the time.

13 **Q. This is Exhibit --**

14 A. This letter is not signed. I'm assuming
15 that it was signed and sent.

16 **Q. Do you recall sending a letter to**
17 **Mr. Forester?**

18 A. I don't recall this particular letter but I
19 sent letters to Mr. Forester. I am not contesting
20 it. I'm just noting that it's not signed and I don't
21 know -- it looks like it might not have been
22 completed, but I don't know that.

23 **Q. Okay.**

24 A. Go ahead.

25 (Exhibit No.19 was marked for

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1 identification.)

2 **Q. I have handed you Exhibit 19 to your**
3 **deposition. This is another letter from you to**
4 **SCANA, and this one's specifically to Byron Hinson.**

5 A. Yes, sir.

6 **Q. Would this letter have been prepared similar**
7 **to the process you described for the other letters**
8 **that you sent to SCANA in 2016?**

9 A. It would be a similar process.

10 **Q. So you would have informed the ORS staff**
11 **that you wanted to send the letter, the ORS staff**
12 **would have drafted the letter, and you would have**
13 **sent it out; is that right?**

14 A. Yes, that's generally the case, yes.

15 **Q. Is there anything in this letter that you**
16 **believe to have been inaccurate?**

17 A. I don't know. I don't think I would have
18 signed it if I had.

19 **Q. And the substance of this letter would have**
20 **also been conveyed to the PERC at this time, right?**

21 A. I can't say that for certain because every
22 one is not put in there. But I think it would have
23 would be something similar. They have got the
24 letter, they can compare them. It wouldn't
25 necessarily be the same date, it would be around the

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1 same date, but I don't know that.

2 **Q. Okay.**

3 A. I did write similar letters to PERC.

4 **Q. Following this letter, ORS entered into a**
5 **settlement agreement with SCE&G to resolve the issues**
6 **pending in the 2016 docket; isn't that right?**

7 A. We had a Settlement Agreement with Electric
8 Co-op Central, South Carolina Energy Users Committee,
9 and Small Business Chamber of Commerce, and SCE&G
10 resolving the issues.

11 **Q. And you thought that settlement and**
12 **resolution was in the best interest of the**
13 **ratepayers?**

14 A. It was in the public interest.

15 **Q. And the public interest, considering all the**
16 **information that the ORS had related to the status of**
17 **the project; is that right?**

18 A. Yes, the public interest was based on
19 information we had at the time and the definition of
20 public interest at the time.

21 **Q. What was the definition of public interest**
22 **at the time?**

23 A. We had the balance statutorily. We had to
24 balance the interest of the using consuming public,
25 regardless of the class of customers, with the

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1 economic development, job creation and job retention,
2 and maintain the financial integrity of the utilities
3 so that they can invest in and maintain facilities
4 for adequate and reliable service. So it was a
5 three-prong-contest.

6 Now, subject -- now, that's changed. Now,
7 ORS, as I understand it, has changed after I left,
8 it's basically the consumer advocate -- not the
9 consumer advocate but a consumer advocate, too. But
10 they took out financial integrity utility and
11 economic development and jobs.

12 **Q. All right. Do you believe you had**
13 **sufficient information regarding the project to make**
14 **a determination as to whether ORS should agree to the**
15 **settlement, right?**

16 A. At the time we did it, I did.

17 **Q. When was the first time you saw the final**
18 **February 5, 2016 Bechtel Project Assessment Report?**

19 A. I don't think I have ever seen it.

20 **Q. Have you ever seen a November 9, 2015 draft**
21 **report?**

22 A. No, sir.

23 **Q. What about the November 12, 2015 draft**
24 **report?**

25 A. No, sir.

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1 **Q. Have you ever seen the October 22, 2015**
2 **presentation provided -- excuse me -- providing**
3 **preliminary results of the assessment?**

4 A. No, sir, not to my knowledge.

5 **Q. When was the first time you were made aware**
6 **of the February 5, 2016 Bechtel report?**

7 A. I think it was during the -- I believe this
8 is true, I think, or I wouldn't say it if it isn't,
9 but I believe my recollection is that it came out
10 during the Senate hearings on the abandonment issue.

11 **Q. Do you have an independent understanding of**
12 **what information conveyed in the Bechtel report the**
13 **ORS believes it didn't otherwise know?**

14 A. No, sir.

15 **Q. Did you ever evaluate the Bechtel report or**
16 **any information related to the Bechtel report from**
17 **that perspective?**

18 A. No, sir.

19 **Q. So you're just not capable of saying right**
20 **now whether the Bechtel report conveyed information**
21 **that ORS wasn't familiar with previously; is that**
22 **right?**

23 A. I don't -- I'm not capable, I don't have the
24 knowledge because I never read the Bechtel report and
25 I have never done an evaluation.

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1 MR. CHALLY: Okay. That's all the
2 questions I have, Mr. Scott.

3 THE WITNESS: Thank you.

4 EXAMINATION

5 BY MR. LIGHTSEY:

6 Q. I've got a few questions I would like to ask
7 you, Mr. Scott. Give me just a minute.

8 If we could turn back to Exhibit 1, if you
9 can find that in your stack there.

10 A. Yes, sir.

11 Q. And this was a press release about the
12 analysis --

13 A. Yes, sir.

14 Q. -- ORS had Elliott Davis do --

15 A. Yes, sir.

16 Q. -- is that right?

17 Do you recall if this was something that
18 Mr. Marsh at SCE&G wanted to happen or was it
19 something that he resisted?

20 A. He -- he at first resisted, but the -- but
21 then he had his staff, I think, fully cooperative
22 with ORS. And in fact, in later conversations, he --
23 I mean he was very kind, but he resisted it at the
24 beginning for some reason.

25 Q. But later he cooperated?

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1 A. Elliott Davis never complained about the
2 lack of cooperation.

3 **Q. Can you relate to us a conversation that you**
4 **had with Belton Zeigler in 2009 that was on the topic**
5 **of SCE&G filtering information provided to ORS?**

6 MR. CHALLY: Object to the form.

7 BY MR. LIGHTSEY:

8 **Q. Go ahead.**

9 A. So I don't know that it was 2009, but there
10 was a time that Mr. Zeigler said something to the
11 effect that we need to filter the information before
12 we give it to you, and I objected to the filtering of
13 the information.

14 **Q. And how did he respond to that?**

15 A. Mr. Zeigler's always very kind. I don't
16 know what his actual response was but he -- I don't
17 remember what his actual response was but it was a
18 very kind response, as I recall.

19 **Q. Did you feel you had made it clear to him**
20 **that ORS did not want SCE&G to be filtering the**
21 **information provided to you?**

22 A. I thought I did.

23 **Q. And did you feel that there was an agreement**
24 **that SCE&G would not do that?**

25 A. I don't know whether he agreed or not to it.

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1 **Q.** All right. Do you recall seeing -- I know
2 you said that you had not seen the Bechtel report or
3 the drafts of the Bechtel report. Do you remember
4 seeing the document called the Bechtel Action Plan?

5 A. I remember that.

6 **Q.** How did you find out about that?

7 A. It came out in the House Panel when the
8 House was -- after the Governor ordered Santee Cooper
9 to produce the Bechtel report, and then they produced
10 it to the House and the House is actually the one
11 that brought it out in public.

12 **Q.** And what was your reaction when you saw
13 that?

14 A. I hate to admit it, but I was so hurt I
15 actually cried.

16 **Q.** Why?

17 A. Because SCE&G, it just shocked me that SCE&G
18 would enter into some kind of agreement deciding how
19 much information to give ORS. I have been in this
20 business a long time. You're dependent on openness
21 and transparency with utilities, and as far as I
22 know, I had always had that with SCANA. So I was
23 very hurt.

24 **Q.** You were asked a number of questions about
25 various people mentioning Bechtel. To your

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1 **knowledge, was the ORS ever informed by SCE&G that it**
2 **had scrubbed and whitewashed the initial draft of the**
3 **Bechtel report?**

4 MR. CHALLY: Object to the form.

5 THE WITNESS: I am not familiar
6 with that. And I think that draft might have
7 been found out after I was gone, so I am not
8 familiar with that.

9 BY MR. LIGHTSEY:

10 **Q. You're not familiar with that being told to**
11 **ORS in real-time when Bechtel report was being**
12 **revised?**

13 MR. CHALLY: Object to the form.

14 THE WITNESS: When was that?

15 BY MR. LIGHTSEY:

16 **Q. In late 2015.**

17 A. Was I told by SCE&G that --

18 **Q. Are you aware of any knowledge that SCE&G**
19 **informed ORS --**

20 A. I am not aware.

21 **Q. -- that it had a draft of the Bechtel report**
22 **and they were scrubbing it and whitewashing it?**

23 MR. CHALLY: Object to the form.

24 THE WITNESS: No, sir.

25

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1 BY MR. LIGHTSEY:

2 Q. Is that consistent with your conversation
3 with Mr. Zeigler that you did not want them filtering
4 the information to you?

5 MR. CHALLY: Object to the form.

6 THE WITNESS: No, sir, that's not
7 consistent.

8 BY MR. LIGHTSEY:

9 Q. In connection -- or were you aware that in
10 late 2014 and early 2015 that SCE&G had conducted an
11 internal analysis of the cost and schedule
12 projections that were being provided by Westinghouse?

13 A. I don't think --

14 MR. CHALLY: Object to the form.

15 THE WITNESS: -- I am not
16 personally aware of it.

17 BY MR. LIGHTSEY:

18 Q. Were you aware that employees of SCE&G had
19 advocated that their numbers, which were not as rosy
20 as Westinghouse's, should be provided to ORS and the
21 PSC?

22 A. No, sir.

23 MR. CHALLY: Object to the form.

24 BY MR. LIGHTSEY:

25 Q. Were you aware that when they raised those

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1 **concerns, they were yelled at by SCE&G's attorney**
2 **that the company was going to use the Westinghouse**
3 **numbers?**

4 MR. CHALLY: Object to the form.

5 THE WITNESS: No, sir.

6 BY MR. LIGHTSEY:

7 **Q. Is that -- if those things did happen, is**
8 **that something ORS would have wanted to know about?**

9 MR. CHALLY: Object to the form.

10 THE WITNESS: Yes, sir.

11 BY MR. LIGHTSEY:

12 **Q. And if they did happen and that was not**
13 **imparted to the ORS, would that be consistent with**
14 **your conversation with Mr. Zeigler that you did not**
15 **want any filtering of information?**

16 MR. CHALLY: Object to the form.

17 THE WITNESS: No, sir.

18 BY MR. LIGHTSEY:

19 **Q. Do you recall having a conversation with**
20 **Steve Byrne, I think in 2014, where you said to him,**
21 **it seems like you're being very honest? Do you**
22 **remember that?**

23 A. I don't remember it being 2014 but I did
24 remember that conversation, and I told him it
25 appeared to me he was being very honest.

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1 **Q. And what did Mr. Byrne say to you?**

2 A. My memory is, he said, I'm as honest as they
3 allow me to be.

4 **Q. In connection with the 2016 Settlement**
5 **Agreement, was there a provision made in that**
6 **agreement what SCE&G would do if Westinghouse went**
7 **over the fixed portion -- I think you alluded to**
8 **this -- but if Westinghouse went over the fixed**
9 **portion of the -- of the agreement?**

10 A. Well, SCE&G, if it was within the fixed
11 price details, would hold Westinghouse responsible.
12 And I think they also got a guarantee from Toshiba
13 that -- to go with it.

14 But my understanding is, if all else fails,
15 that they -- as far as the fixed price portion, they
16 would not come back to the Commission and ask for an
17 increase in budget as to the fixed price portion of
18 the contract.

19 **Q. And why was that put in the Settlement**
20 **Agreement?**

21 A. Because it was most important. We
22 wouldn't -- I don't think -- I don't see how we could
23 have done it without that.

24 MR. LIGHTSEY: Okay. You
25 mentioned -- those are my questions.

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1 THE WITNESS: All right.

2 MR. LIGHTSEY: Thank you.

3 THE VIDEOGRAPHER: Off the record
4 at 16:46.

5 (A recess was taken.)

6 THE VIDEOGRAPHER: Back on the
7 record at 16:49.

8 EXAMINATION

9 BY MR. SMITH:

10 Q. Mr. Scott, my name is Rush Smith, and I
11 represent Santee Cooper. I have got just a couple of
12 questions that are really in the nature of follow-up
13 to your testimony.

14 You mentioned that Santee Cooper is a state
15 agency and it had people there at the site. Did you
16 have any communications with Santee Cooper people or
17 contact with Santee Cooper people at the site?

18 A. Not me personally, no, sir. So I guess I
19 don't have first-hand knowledge of it but I think
20 that to be true.

21 Q. You mentioned a meeting with Mr. Ellerbe and
22 Ms. Heigle, a lunch meeting at Villa Tronco?

23 A. Yeah, you call it a lunch meeting. I
24 thought it was a lunch. I didn't know it was a
25 meeting.

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1 Q. A lunch.

2 A. Right.

3 Q. Who else was there besides Mr. Ellerbe and
4 Ms. Heigle and you?

5 A. That's it.

6 Q. That's it.

7 You mentioned a conversation with Mr. Couick
8 in which Mr. Couick said that Mr. Wolfe told him
9 there was a Bechtel report. Do you know, was that a
10 telephone or in-person conversation?

11 A. I don't know. I don't know, and I sure hope
12 my memory is right there because that's -- that's my
13 memory.

14 Q. I just wanted to know about the time and
15 place and who else was present for the --

16 (Interruption.)

17 Q. So you don't remember the time or place or
18 who else was present for that conversation?

19 A. No, sir. I don't think anybody else was
20 present.

21 Q. You mentioned the second time Mr. Couick
22 mentioned the Bechtel report in the presence of
23 Ms. Powell and others. I believe you said that
24 meeting was at the Co-ops; is that right?

25 A. Yes, sir, that's my memory.

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1 **Q. And what was the purpose of that meeting at**
2 **the Co-ops?**

3 A. It was a -- it was a -- basically a -- where
4 we started meeting monthly there. I think Central
5 might have been there, and Gary and Ms. Powell would
6 have been there when she was working there to give
7 them the same update that I was getting, basically.

8 **Q. You say you believe Central was there. What**
9 **other Co-op representatives were there?**

10 A. It would have been Mike and -- I don't know,
11 he may have had some other people. Oh, yeah, he may
12 have had some other people there. I don't think
13 Frank Ellerbe was there, but he could have been
14 there, Frank could have been.

15 **Q. You mentioned that you didn't think that**
16 **Mr. Couick's memory of the conversations y'all had**
17 **about the Bechtel report was the same. How do you**
18 **know that?**

19 A. Because he told me that, I mean.

20 **Q. When did y'all have that conversation?**

21 A. It was outside the Co-op meeting. It was
22 after the Interrogatories came. But I think -- I
23 think he did, but that wasn't what we were meeting
24 about.

25 **Q. I understand.**

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1 A. And it was just outside that. So I don't --
2 but, now, he's had his deposition taken, which I
3 haven't read, but that's what my memory is. And this
4 is all memory, I mean --

5 **Q. I understand. I understand.**

6 **What was the purpose of that meeting?**

7 A. I think that was the meeting on what they
8 called an Act 236.2.

9 **Q. Oh my, one of those PSC acronyms for the**
10 **rest of us --**

11 A. Well, actually, Act 236 is the Act which the
12 General Assembly passed to encourage solar, and in
13 that there was -- and they called it a cap. But
14 anyway, the meeting is to try to come up with some
15 long-term solution to distribute energy in general,
16 and that was what I think that meeting was about. I
17 think y'all attended those meetings, Santee Cooper
18 was kind of -- I think that's what that meeting was
19 about.

20 **Q. There was a part in your testimony where you**
21 **mentioned sending Mr. Couick things, and you said the**
22 **documents would be there in the ORS file but you**
23 **didn't know if the letters would be there, and I**
24 **didn't understand that. Can you explain that?**

25 A. What I generally did was, at some point in

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1 time, for some period of time, the review committee
2 letters, the part that addressed the V.C. Summer
3 project, I would furnish those to Mike. I wouldn't
4 put a letter in there. Mike, he was just expecting
5 that. But that's what that would be referring to.

6 **Q. So how was it conveyed to him or delivered**
7 **to him?**

8 A. I don't know whether it would be e-mail or
9 whether he had -- sometimes we would have a runner
10 come pick them up, I think, or he had a runner come
11 pick some things up, but it could have been an
12 e-mail.

13 **Q. What kind of things would he have a runner**
14 **pick up?**

15 A. Things like that, I mean, it could be.

16 **Q. Communications from the ORS?**

17 A. Right, right. But it could have been
18 e-mail, too.

19 **Q. I see. You mentioned Mr. Jones making a**
20 **presentation to the Co-ops at Kiawah.**

21 A. Yes.

22 **Q. Were you there for that?**

23 A. Yes, sir.

24 **Q. And what do you remember about that**
25 **presentation?**

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1 A. I don't remember the presentation. I don't
2 even remember when it was. I remember that ORS paid
3 for it out of their budget because we didn't feel
4 comfortable, of course, charging SCE&G for that, so,
5 but --

6 **Q. Where was that meeting at Kiawah?**

7 A. I guess at the conference center or
8 something down there.

9 **Q. Was it at the Sanctuary?**

10 A. I don't know. That sounds familiar, but I
11 don't know.

12 **Q. Was it at a fancy hotel or a kind of**
13 **pedestrian conference center? There are two places**
14 **like that, I have been to both of them.**

15 A. I don't know. I have heard of the Sanctuary
16 before.

17 **Q. I was confused at the beginning of the**
18 **deposition when you were talking about your**
19 **conversations with Mr. Couick, and there was one**
20 **conversation, if I understood correctly, where**
21 **Ms. Edwards was present. Is that the conversation**
22 **were you were talking about your Interrogatories**
23 **where she was present?**

24 A. She was present for that conversation.

25 MR. SMITH: That's all I have.

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1 Thank you.

2 MS. FICKLING: Go off for a second
3 to call back in.

4 THE VIDEOGRAPHER: Off the record
5 at 16:56.

6 (Off-the-record discussion.)

7 THE VIDEOGRAPHER: Back on the
8 record at 16:58.

9 EXAMINATION

10 BY MS. FICKLING:

11 Q. Mr. Scott, my name is Jessica Fickling, and
12 I'm with the Strom Law Firm. I represent the
13 plaintiff class in this case. I know you're tired so
14 I will try to be brief.

15 You were asked some questions just a few
16 moments ago about a conversation that you had with
17 Belton Zeigler in 2009.

18 A. I don't remember the year but I do remember
19 the conversation.

20 Q. Do you think that it was more towards the
21 beginning of the project or more towards the end of
22 the project?

23 A. I think it would have been toward the
24 beginning of the project.

25 Q. And just explain to me again what the

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1 **substance of that conversation was.**

2 A. Well, I don't know how it came up, but there
3 was a point that he -- my memory is that he said
4 something to the effect that, before we got the
5 information, they had to filter it, and that -- I
6 found that to be offensive.

7 **Q. What about that was offensive to you?**

8 A. Because I didn't want them filtering
9 information before we got it.

10 **Q. Do you remember if he provided an**
11 **explanation about why they would need to filter**
12 **information?**

13 A. No, sir. No, ma'am. Sorry. I've been
14 saying "sir" for so long.

15 **Q. Allyn Powell was one of the members of that**
16 **ORS team; is that right?**

17 A. At times. She left for a while and came
18 back.

19 **Q. Do you recall ever having a conversation**
20 **with Ms. Powell where she referenced that SCE&G might**
21 **be trying to limit information that it was providing**
22 **to ORS?**

23 MR. CHALLY: Object to the form.

24 THE WITNESS: I don't know. There
25 was some times when -- but I don't recall her

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1 actually saying limiting the information, but she
2 may have.

3 BY MS. FICKLING:

4 **Q. Okay. And again, if you don't know, I don't**
5 **want you to assume.**

6 A. Right, right.

7 **Q. But it sounds like you did have some**
8 **conversations with her about the requests to SCE&G.**
9 **Can you just recount those for us?**

10 A. No, ma'am, I don't know them. They never --
11 I mean, I don't recall them coming to me and saying
12 you need to get involved or anything.

13 **Q. I want to turn your attention to what was**
14 **marked in your deposition earlier as Exhibit 1.**

15 A. Yes, ma'am.

16 **Q. And again, that's the letter from January**
17 **the 15th of 2016, the press release where ORS is**
18 **discussing the findings of the independent audit from**
19 **Elliott Davis; is that right?**

20 A. Yes, yes, ma'am.

21 **Q. Is it your understanding that the findings**
22 **were based upon the substantial completion dates that**
23 **the company knew at the time or the company had**
24 **provided at the time?**

25 A. I don't know that.

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1 **Q. At the completion of this project, the**
2 **revised rates did not save the customers any money,**
3 **did they?**

4 A. Depends what happened at the abandonment
5 proceeding.

6 **Q. Okay. So that's still open?**

7 A. It could have saved them money, yes, ma'am.
8 Depends on what happens at the abandonment
9 proceeding, and we don't know the answer to that yet.

10 **Q. Okay.**

11 A. And we ain't going to know it because I'm no
12 longer there.

13 **Q. I want to turn your attention to, I believe**
14 **it was marked in your deposition as Exhibit 6.**

15 A. Yes, ma'am.

16 **Q. All right. And it's the e-mail from October**
17 **the 22nd of 2015; is that correct?**

18 A. Yes, ma'am.

19 **Q. And it appears to have an attachment, and**
20 **it's the ORS agenda for the October 2015 site visit;**
21 **is that correct?**

22 A. That's what it says, yes, ma'am.

23 **Q. Do you recall ever seeing the agenda before?**

24 A. No, ma'am.

25 **Q. Did you, from time to time, receive the**

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1 **agendas from the members of ORS staff?**

2 A. I don't think so.

3 **Q. All right. There are a number of people**
4 **referenced on this agenda; is that correct -- Alan**
5 **Torres, Kyle Young, I have April Rice -- at the very**
6 **top.**

7 A. Yes, ma'am, there's a number of people
8 making presentations and the time of the
9 presentation.

10 **Q. Are those individuals all members of SCE&G**
11 **or SCANA?**

12 MR. CHALLY: Object to the form.

13 THE WITNESS: I don't know all of
14 them. Alan is, I know he is with them. I know
15 Kyle Young's name is familiar. Skip, is that
16 Skip Smith? It just says Skip, but that must be
17 Skip Smith. I am familiar with him.

18 BY MS. FICKLING:

19 **Q. And who was Alan Torres?**

20 A. I am not exactly sure his title but I think
21 he was sort of like a general manager.

22 **Q. And you understood that he was a member of**
23 **SCE&G or SCANA staff; is that correct?**

24 A. Yes, ma'am.

25 **Q. And it says here, it looks like he was going**

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1 to be providing some information about construction;
2 is that right?

3 A. Yes, ma'am.

4 Q. Do you see anybody on there that you think
5 was a Westinghouse employee?

6 A. Well, now, I wouldn't -- I know Brad Stokes,
7 but he is SCANA. I don't see anybody on here but,
8 you know, I don't know them all. I don't know
9 Ms. Rosenberg and I don't know who Michelle and
10 Margaret and Cindy are, so I wouldn't necessarily
11 know that answer.

12 Q. Regardless, there is a number of different
13 items on this agenda, they include construction of
14 commercial licensing, training, quality assurance; is
15 that right?

16 A. Yes, ma'am.

17 Q. And were those topics that ORS would
18 commonly ask SCE&G about with regard to this project?

19 A. This was at the, you know, staff level, so I
20 don't have personal knowledge of the agenda. But it
21 sounds consistent, but I don't have personal
22 knowledge of it.

23 Q. But it sounds consistent that ORS would be
24 asking SCE&G about those various topics regarding
25 this project?

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1 A. It sounds consistent but I don't have
2 personal knowledge of it.

3 **Q. Did ORS -- how often were you on the site,**
4 **actually on the site?**

5 A. I was only on the site at the very
6 beginning, and in the Steve Byrne tour, and I think
7 the Westinghouse meeting that I spoke of, I think
8 that might have been on the site. Those are the
9 times that I remember going on there. I think -- I
10 don't know whether I went out there and gave a
11 presentation one time or not. I know I spoke at the
12 beginning thing but I wasn't on site visits.

13 **Q. Okay. Mr. Scott, we have reviewed a number**
14 **of letters throughout today that have documented**
15 **certain issues that ORS was observing with the**
16 **project; is that correct?**

17 A. Yes, ma'am.

18 **Q. And those issue were things like problems**
19 **with module fabrication; does that sound familiar?**

20 A. I think that's familiar.

21 **Q. Does that sound like a problem that was a**
22 **historic issue on the project?**

23 A. I think, I think -- you know, I don't want
24 to do any guessing here.

25 **Q. Sure.**

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1 A. But I have heard that over a period of time.

2 **Q. Do you remember who you heard that from?**

3 A. Oh, not necessarily. It would have been
4 staff.

5 **Q. And do you remember over how long a period**
6 **of time you would have heard that that was an issue?**

7 A. No, ma'am.

8 **Q. What about licensing, did you have any --**
9 **did you ever hear anything about issues with**
10 **licensing on the project; does that sound familiar?**

11 A. They had to go get LARs, License Amendment
12 Requests.

13 **Q. And was that atypical for a project like**
14 **this?**

15 A. I have never known a project like this so I
16 don't know what typical and what's atypical.

17 **Q. Sure.**

18 A. They were actually operating under a
19 different rule than -- with the NRC than V.C.
20 Summer 1 was built under. So V.C. Summer 1 was built
21 under a different NRC process than this one.

22 **Q. And this one was called the COL, correct?**

23 A. It was what?

24 **Q. The COL, C-O-L; is that right?**

25 A. C-O-L, oh, yes, Combined Operating License,

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1 Construction Operating License.

2 **Q. And that was different than V.C Summer 1?**

3 A. Yes, ma'am.

4 **Q. I believe that we talked a bit about some**
5 **correspondence that you had with SCE&G throughout the**
6 **project. How did you communicate with members of**
7 **SCE&G?**

8 A. It wasn't all -- most of it was telephone
9 calls, you know, and most of the communication was
10 with the staff and -- but you saw some letters that I
11 wrote in 2016 and -- but it would be telephone calls
12 or meeting with them.

13 **Q. So you exchanged telephone calls; is that**
14 **correct?**

15 A. I think so, yes, ma'am, we did exchange
16 telephone calls.

17 **Q. You exchanged letters?**

18 A. The letters that I furnished you -- not
19 furnished you but it was on our website were the
20 letters. And then I wrote a letter to Mr. Marsh on
21 December the 29th about the financial issues, and I
22 wrote a letter asking to be in attendance to that
23 meeting, and I wrote a letter in 2017 listing some
24 items the staff said that they would like to have.
25 It wasn't a -- it wasn't a daily exchange of letters

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1 by any means.

2 Q. Did you ever communicate with anyone from
3 SCE&G or scan via e-mail?

4 A. Oh, I'm sure I did, yes, ma'am.

5 Q. Do you know who that would have been?

6 A. Generally, that would have been Ken Jackson
7 or Byron.

8 Q. What about through text messages?

9 A. Could, yes, ma'am, probably did.

10 Q. And who would you have texted from SCE&G or
11 SCANA?

12 A. Probably the same, maybe Jimmy Addison.

13 Q. And you mentioned Byron Hinson. Who was
14 Byron Hinson?

15 A. He was head of regulatory rate and
16 regulatory affairs or something like that. He was
17 the director level.

18 Q. Do you recall the majority of your
19 correspondence being with Mr. Hinson?

20 A. Well, he came in -- I don't remember when he
21 came in. But I would think any correspondence would
22 be with Mr. Hinson, mostly with Mr. Hinson.

23 Q. Would that include the text messages we just
24 talked about?

25 A. Right or -- probably.

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1 Q. Or Ken Jackson maybe?

2 A. Or Ken Jackson.

3 Q. Now, you were asked a number of questions
4 earlier about Freedom Of Information Requests; is
5 that correct?

6 A. Yes, ma'am.

7 Q. You mentioned some confidentiality terms; is
8 that right?

9 A. Yes, ma'am.

10 Q. Were those requested by SCE&G?

11 A. Yes, ma'am.

12 Q. And do you remember around what time SCE&G
13 would have requested that certain information be made
14 confidential?

15 A. I would think from the beginning.

16 Q. From the beginning?

17 A. I would think.

18 Q. You don't recall a specific time frame?

19 A. No, ma'am. See, all that was done at the
20 lawyer level with the confidentiality stuff.

21 Q. All right. And I think that you said that
22 you exchanged certain letters that you don't have
23 because they were subject to that confidentiality; is
24 that correct?

25 A. I don't think I got any letters that was --

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1 I didn't retain any, but I got them back when I
2 needed them so they are -- the ones that you're
3 talking about is on the website.

4 **Q. But to the extent that you didn't need them**
5 **back, those letters that were subject to**
6 **confidentiality should be in the possession of SCE&G;**
7 **is that right?**

8 A. Yes, ma'am.

9 **Q. With who; do you remember anybody in**
10 **particular?**

11 A. Well, the letters that we're talking about,
12 and it's public information now, is to Byron or Kenny
13 Jackson. And it was -- and I think it was primarily
14 in the 2016 time frame.

15 **Q. Anything before that time though that you**
16 **exchanged with them that you didn't need back would**
17 **be still in the possession of SCE&G, is your**
18 **understanding?**

19 A. If that's such a thing, it should be.

20 **Q. Mr. Scott, you have been either with the**
21 **Public Service Commission or with the ORS for well**
22 **over three decades, correct?**

23 A. Decades, yes, ma'am. There was --
24 basically, I went in January of '81 and I left in --
25 finally left in January of 2016. But there was a

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1 period of about a year and a half where I went into
2 practice with Mitch Willoughby, and that was in '85
3 to summer of '86. And then -- then there was -- and
4 then I went back to the Commission and then -- but I
5 left for almost five years, or a little over five
6 years, to go be Administrative Law Judge and then
7 went back when the ORS was formed.

8 **Q. Sure.**

9 A. But a lot of time, yes, ma'am.

10 **Q. And again, so you have got a lot of**
11 **experience in this area. Is it your understanding**
12 **that SCE&G had a responsibility to its customers**
13 **regarding this project?**

14 MR. CHALLY: Object to the form.

15 THE WITNESS: Oh, yes, ma'am.

16 BY MS. FICKLING:

17 **Q. What responsibility do you think SCE&G had**
18 **to its customers regarding this project?**

19 MR. CHALLY: Object to the form.

20 THE WITNESS: I mean, that they
21 would have the responsibility of -- to try to
22 hold down cost, but get the project built and at
23 a reasonable cost, I think.

24 BY MS. FICKLING:

25 **Q. Do you recall whether ORS believed that**

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1 **SCE&G was taking a hands-on approach with regard to**
2 **its management of the project?**

3 A. And this is just hearsay and pure hearsay,
4 nobody told me that, but it did appear, I think, to
5 some of the staff at times that -- hands-off is not
6 the right term, but they were kind of standing back.

7 **Q. I think I recall you testifying earlier that**
8 **SCANA had -- ORS thought that the responsibility was**
9 **on SCANA and SCANA thought the responsibility was on**
10 **Westinghouse; is that right?**

11 A. Did I testify to that? I mean, it doesn't
12 sound wrong, but I can't speak for what's SCANA
13 thought or what Westinghouse thought.

14 **Q. What did ORS think?**

15 A. About?

16 **Q. About SCANA pushing off responsibility.**

17 A. We didn't like it. And when -- when the --
18 I don't want to extend the process, but that was one
19 of the proposed changes that I made to the Base Load
20 Review Act in 2017 that I think Mr. Finley's
21 amendment that didn't get out of committee but that
22 was one of the things that I suggested. And, of
23 course, we don't file legislation, but suggested that
24 they make it plain that the owner remains
25 responsibile, regardless, and can't delegate that

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1 responsibility.

2 **Q. And was it ORS's understanding throughout**
3 **the pendency of this project that the owner was**
4 **responsible for it?**

5 A. Well, we would think the owner was
6 responsible for it but we also thought that the -- we
7 had to show by preponderance of the evidence of
8 imprudence on the part of the owner and not on the
9 part of the contractor. So that's why I proposed to
10 legislation to make that -- to change that.

11 **Q. And that brings up an interesting point.**

12 A. I'm sure.

13 **Q. Did the BLRA shift who the burden was on?**

14 MR. CHALLY: Object to the form.

15 THE WITNESS: I think it did.

16 BY MS. FICKLING:

17 **Q. What do you think, Mr. Scott?**

18 A. Well, I think that once they got the
19 prudency determination, that the burden of proof --
20 the burden of proof was on them to get the original
21 Base Load Review Order. Now, what I think and \$3
22 will get you a cup of coffee today -- I think it will
23 get you a cup of coffee today. But I think that once
24 they got that prudency determination, that if someone
25 wanted to contest it, it would be up to them to show

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1 the imprudence. I think it did. I don't think
2 everybody agrees with that, but I think it did.

3 **Q. Is it your understanding that SCE&G was --**
4 **or SCANA was responsible for enforcing the terms of**
5 **the EPC contract?**

6 A. I would think so.

7 **Q. And do you have an opinion as to what the**
8 **keys of the contract were to accomplish its**
9 **enforcement?**

10 MR. CHALLY: Object to the form.

11 THE WITNESS: No, ma'am.

12 BY MS. FICKLING:

13 **Q. Do you have any opinion about the liquidated**
14 **damages provision in the EPC contract?**

15 A. No, ma'am. I think they increased it,
16 though, in one of the amendments, but --

17 **Q. Are you aware of whether SCE&G and/or SCANA**
18 **ever gave up any rights to liquidated damages under**
19 **the contract?**

20 A. Yes, ma'am.

21 **Q. Tell us about that.**

22 A. Well, my memory now is that in the
23 October 27th amendment, they gave up -- I think gave
24 up a claim to liquidated damages up to that point.
25 Now, they got additional -- I think they increased

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1 the next liquidated damages, but I do believe that to
2 be a true statement.

3 Q. Do you know whether the liquidated damages
4 were supposed to be on behalf of the customers?

5 A. Oh, I don't -- it would have been -- if
6 they'd still let me be executive, I would -- it would
7 be my position.

8 Q. Did SCE&G ever make any representations that
9 those damages would accrue to the -- on the behalf of
10 the customers?

11 A. I don't think so.

12 Q. What about the contract termination
13 provisions, are you aware of the circumstances where
14 SCE&G could terminate for cause?

15 A. No, ma'am.

16 Q. Other than sending letters to Westinghouse,
17 the contractor on the project, are you aware of any
18 other measures that SCE&G took to enforce the terms
19 of the EPC contract?

20 A. I'm not aware of any but we weren't in their
21 meetings.

22 Q. And I think you have testified earlier that
23 at some point you asked to be included in a meeting
24 in 2017 and you were denied access?

25 A. Right.

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1 **Q. I think you were -- you were really clear**
2 **about this earlier and I just want to make absolutely**
3 **sure. At the time that you were the Director of ORS,**
4 **you had responsibilities to three different missions;**
5 **is that right?**

6 A. Yes, ma'am.

7 **Q. So you weren't necessarily working solely on**
8 **behalf of the customers of South Carolina?**

9 A. I mean, there was a three-prong balancing
10 to -- so, I mean, I guess the answer is no, ma'am.
11 The General Assembly has caught that now and it's
12 changed that going forward. But I think -- I think
13 the answer is that you had all these other interests,
14 too, so not solely on the behalf of the customer.

15 **Q. Okay.**

16 A. But that wasn't -- that wasn't a charge, I
17 mean, that wasn't what the law provided us to do.

18 **Q. I want to turn your attention to what was**
19 **marked as Exhibit 8 to your deposition.**

20 A. Yes, ma'am.

21 **Q. And down at the bottom where it states**
22 **"Request Description," do you see that?**

23 A. Ma'am?

24 **Q. Down at the bottom where it states "Request**
25 **Description" on the first page.**

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1 A. Yes, ma'am.

2 Q. And again, this is ORS/NND Request GCJ-3,
3 it's from May the 22nd, 2015; is that correct?

4 A. Please say that again. I'm so sorry.

5 Q. It's okay. I talk fast.

6 The top of the document, ORS/NND Request
7 GCJ-3.

8 A. Right.

9 Q. And the date of the document is May the 22nd
10 of 2015; is that right?

11 A. Yes, ma'am.

12 Q. Under "Request Description."

13 A. Yes, ma'am.

14 Q. Now, this is a request talking about the
15 proposed productivity factor that Westinghouse has
16 used, 1.15; is that right?

17 A. State the -- tell me again what you're
18 asking me "is that right."

19 Q. I just want to make sure that you and I are
20 on the same page; that the request is asking for
21 information about the proposed Westinghouse
22 productivity factor of 1.15.

23 A. How SCE&G can accept a productivity factor,
24 is that what you're talking about?

25 Q. That's right.

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1 A. Yeah, that's what it says, yes.

2 Q. And specifically, this request is saying
3 "The point of the question is to explain how SCE&G
4 can accept a productivity factor as the basis of the
5 EAC that reflects a significantly higher level of
6 productivity that has yet to be realized during the
7 previous several months of high levels of
8 construction activity;" is that correct?

9 A. That's what it says.

10 Q. And then in response -- this is on the next
11 page. Do you see where it says, "SCE&G has had frank
12 discussions with the consortium about achieving the
13 improved productivity factor"?

14 A. Yes, ma'am.

15 Q. Does that paragraph, other than saying SCE&G
16 has had frank discussions, does that paragraph
17 include any other conduct that SCE&G undertook to
18 explain how it got to the 1.15 PF?

19 A. Can you tell me without me having to read
20 it? You're asking me did they do anything other than
21 having frank discussions enforcing it?

22 Q. That's right, sir.

23 A. That's all I can read.

24 Q. That's all it says?

25 A. That's all it says to me.

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1 **Q. Okay. Earlier, you were asked a number of**
2 **questions about whether ORS had statutory**
3 **responsibilities to customers to monitor and audit**
4 **the project; is that correct?**

5 A. To the public interest which included
6 customers.

7 **Q. Sure. Is it your understanding that SCE&G**
8 **also had a statutory responsibility by choosing to**
9 **construct this project under the Base Load Review**
10 **Act?**

11 A. Oh, absolutely.

12 **Q. What's that responsibility?**

13 A. They had that responsibility to, I think, to
14 monitor it, to complete it, you know, to work toward
15 completion, to make decisions in the interest of the
16 customers as well as the public interest.

17 **Q. Did ORS think that SCE&G was in charge of**
18 **those things?**

19 A. I don't -- we believed that -- I think we
20 believed that SCE&G was in charge of those things. I
21 mean, that's who, you know, we would look to
22 responsibility for.

23 **Q. Well, you couldn't look to Westinghouse,**
24 **could you?**

25 A. No, ma'am. We had no jurisdiction over

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1 Westinghouse.

2 **Q. But you did have jurisdiction over SCE&G; is**
3 **that right?**

4 A. Yes, ma'am. We didn't have jurisdiction. I
5 think the Commission had jurisdiction by -- there is
6 a question whether we have jurisdiction, you know.

7 **Q. Sure. Let me ask you: ORS doesn't have the**
8 **authority to construct a nuclear power plant, does**
9 **it?**

10 A. No, ma'am.

11 **Q. ORS doesn't have the authority to mitigation**
12 **damages on a construction project, does it?**

13 A. No, ma'am.

14 **Q. ORS doesn't have the authority to select the**
15 **project contractor?**

16 A. No, ma'am.

17 **Q. ORS wasn't involved in the negotiations for**
18 **the EPC contract or its amendments, was it?**

19 A. No, ma'am.

20 **Q. ORS wasn't in charge of the election to the**
21 **fixed price option, was it?**

22 A. No, ma'am. When we saw that, it was already
23 a contract. When I saw it, it was already a
24 contract.

25

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1 schedule impacts the budget. I think that's a
2 true statement.

3 BY MS. FICKLING:

4 **Q. Can you know the full budget without**
5 **understanding the full schedule?**

6 MR. CHALLY: Object to the form.

7 THE WITNESS: I don't know the
8 answer to that.

9 BY MS. FICKLING:

10 **Q. Okay. Do you know whether at the time of**
11 **the abandonment ORS was in possession of a full**
12 **project schedule?**

13 MR. CHALLY: Object to the form.

14 THE WITNESS: I don't think -- I
15 don't think we were in possession of a fully
16 resource loaded project schedule. There is all
17 kinds of schedules and -- but I think you're
18 referring to a fully resource loaded project
19 schedule. I don't think we were in possession of
20 it.

21 BY MS. FICKLING:

22 **Q. Okay. Do you know -- would you agree with**
23 **me that there is a difference between the critical**
24 **path and milestones?**

25 A. I don't know the difference.

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1 Q. Okay. So --

2 A. I'm not saying it isn't, but --

3 Q. That's fine. The documents that ORS was
4 provided that it was allowed to analyze with regard
5 to this project, who provided those documents to ORS?

6 A. Who provided what documents?

7 Q. Any documents that ORS reviewed and analyzed
8 in this project, who provided those documents to ORS?

9 A. I don't know.

10 Q. Was it SCE&G?

11 A. Oh, it would have been SCE&G or SCANA
12 Services that provided the documents under this, so I
13 would think.

14 Q. So every document that ORS was in possession
15 of was because SCE&G has given them the documents?

16 MR. CHALLY: Object to the form.

17 THE WITNESS: I don't know every
18 document was that situation or not.

19 BY MS. FICKLING:

20 Q. Did ORS eventually conclude that the project
21 was subject to substantial delay?

22 A. I don't know ultimately. Now, Mr. Jones
23 testified in 2016 that, although it would take
24 improved productivity -- and you have got his
25 testimony, I'm just going back over it -- but he

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1 thought they could -- you had an 18-month thing, and
2 I think he testified that it would take increased
3 production but that they could come within the 18
4 months.

5 **Q. And ORS was aware that the productivity**
6 **factor on the project had been historically poor?**

7 A. I don't know whether we characterized it as
8 "poor" but we knew what the historical productivity
9 factors was.

10 **Q. Is it fair to say that delay in the project**
11 **had caused a 2012 petition for a schedule and cost**
12 **increase?**

13 A. Ma'am?

14 **Q. Is it fair to say that delay in the**
15 **projected had resulted in a 2012 petition for a cost**
16 **and schedule increase?**

17 A. I don't know what -- I thought that was the
18 owner's cost, and I don't know whether that was -- I
19 don't know.

20 **Q. You don't know the basis for that particular**
21 **petition?**

22 A. No, I thought it was owner's cost, but I --
23 I mean, I could be wrong.

24 **Q. Okay. Were you -- did you have**
25 **conversations with Allyn Powell when she exited the**

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1 **ORS?**

2 A. No, ma'am.

3 **Q. Do you know who did?**

4 A. Ms. Edwards would have had the conversation.

5 **Q. Are y'all in possession of an exit interview**
6 **that you were aware of at the time?**

7 A. Ma'am?

8 **Q. Was the ORS in possession of some kind of**
9 **exit interview from Allyn Powell?**

10 A. I don't know.

11 **Q. All right.**

12 A. At the time she left, August 23rd had come
13 and gone. I mean, I was -- I was not doing good.

14 **Q. Were you aware that Ms. Powell had lost**
15 **faith in SCE&G by that point in time?**

16 MR. CHALLY: Object to the form.

17 THE WITNESS: At that point in
18 time, I was not aware of that but I understand
19 that is the case.

20 BY MS. FICKLING:

21 **Q. When did you --**

22 A. And I don't know whether I wasn't aware of
23 that or not, you know, I don't -- but anyway, go
24 ahead.

25 **Q. Well, when did you become aware of it?**

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1 A. Well, I became aware of it, I think, and I
2 think we all kind of had lost -- you know, after the
3 revelation of the action plan that was referred to
4 earlier, I mean, I think we all lost a little faith
5 in SCANA and SCE&G once we saw that action plan. But
6 that was -- I was made aware of what she stated in
7 her deposition recently.

8 **Q. When you became aware of it, did that take**
9 **you back to the conversation you had with Belton**
10 **Zeigler at the beginning of the project where he said**
11 **that he needed to sort of narrow the information?**

12 A. It didn't take me back to that but, I mean,
13 there is a point there, I think, I guess, but I
14 didn't relate the two.

15 **Q. Was it fair to expect you, as the Director**
16 **of ORS, to be more knowledgeable than SCE&G about the**
17 **third-party assessment that SCE&G had commissioned?**

18 MR. LIGHTSEY: Object to the form.

19 THE WITNESS: I would hope not.

20 BY MS. FICKLING:

21 **Q. Is it fair to say that only SCE&G had**
22 **control over who received that assessment?**

23 MR. CHALLY: Object to the form.

24 THE WITNESS: Well, until the
25 Governor came in and demanded it, they had

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1 control over it, yeah.

2 BY MS. FICKLING:

3 Q. I think that you mentioned earlier that -- I
4 think you had said that there was a Power Point
5 presentation of the action plan; is that correct?

6 A. I didn't say that as a matter of fact. I
7 said that was my understanding of what Ms. Powell
8 said that there was a -- that she was told there was
9 a Power Point presentation, but that the people out
10 at the site didn't, I don't think, had it.

11 Q. Did you -- and I just want to clarify your
12 testimony. Did you testify that that Power Point
13 presentation had been shown to the directors?

14 A. I thought that they said that it was shown
15 to the Board of Directors, but that's just some
16 conversation somewhere sometime on the line. Nobody
17 from SCANA, I don't think, told me that. I think
18 somebody out there might have told staff that and
19 told me that.

20 Q. That some members of SCANA had been made
21 aware they had seen the Power Point presentation?

22 A. That's what I was told by staff that their
23 understanding was that the Power Point presentation
24 was made to the board.

25 Q. You know, again, we have gone over a number

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1 of correspondence that you had sent in the 2015, 2016
2 time frame. I think it was your testimony that you
3 don't necessarily have personal knowledge of all the
4 information in those letters; is that right?

5 A. That's correct.

6 THE WITNESS: Ma'am, could we take
7 a break or --

8 MS. FICKLING: Oh, no, absolutely.
9 I was winding down, so this is a good time for a
10 break.

11 THE WITNESS: If you're winding
12 down, let's go.

13 MS. FICKLING: No, this is a good
14 time for a break, it is.

15 THE WITNESS: Okay.

16 THE VIDEOGRAPHER: Off the record
17 at 17:30.

18 (A recess was taken.)

19 THE VIDEOGRAPHER: Back on the
20 regard 17:37.

21 BY MS. FICKLING:

22 Q. Mr. Scott, have you understood all the
23 questions I have asked you?

24 A. I think so.

25 MS. FICKLING: Okay. I don't have

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1 any further questions for you but I assume that
2 there might be some clean-up.

3 THE WITNESS: Okay. Thank you. I
4 don't think so.

5 EXAMINATION

6 BY MR. CHALLY:

7 **Q. I have one follow-up for you, Mr. Scott.**

8 A. Yes, sir.

9 **Q. In response to questions from Mr. Lightsey,**
10 **you recounted a conversation that you recall having**
11 **with Belton Zeigler; is that right, in the 2009 time**
12 **frame?**

13 A. I don't remember the exact time frame but
14 2009 sounds right; and that's true, yes, sir.

15 **Q. And it was your -- was it your understanding**
16 **in that discussion that SCE&G was conceding to your**
17 **position that information not be filtered when**
18 **provided to the ORS?**

19 A. I don't think they agreed or disagreed. I
20 don't recall. Mr. Zeigler was very kind about it, I
21 mean, he wasn't --

22 **Q. You had a close working relationship with**
23 **Mr. Zeigler for years following that, right?**

24 A. I thought I did, yes, sir.

25 **Q. Prior to abandonment, are you aware of any**

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1 **specific instance where information was filtered by**
2 **SCE&G before it went to the ORS?**

3 A. I'm not, but I don't -- other than what's
4 been brought up here.

5 **Q. And the only thing that you know to be**
6 **brought up here that you're referring to is**
7 **information related to Bechtel; is that right?**

8 MR. LIGHTSEY: Object to the form.

9 THE WITNESS: I don't know. You
10 know, there was some questions here, was that
11 consistent with your idea of not filtering, and I
12 responded to those questions, but I don't
13 remember every one of them.

14 BY MR. CHALLY:

15 **Q. But you can't recall, sitting here today,**
16 **anything specific that you are aware of where SCE&G**
17 **filtered information before it went to the ORS; is**
18 **that right?**

19 A. Other than what was asked about. Now, I
20 wouldn't know anything that ORS discovered after
21 January the 15th as far as anything that was
22 filtered. But you're right, Mr. Zeigler, I think,
23 had a good working relationship with ORS overall. I
24 mean, there was always issues.

25 **Q. And you had a very good working relationship**

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1 with Mitch Willoughby, who was also a lawyer
2 representing SCE&G at the time?

3 A. Very good with Mitch Willoughby.

4 Q. Never had concerns at all regarding what
5 Mr. Willoughby was discussing with the ORS during
6 your tenure?

7 A. Not Mitch Willoughby. I mean, I practiced
8 law with Mitch Willoughby. He was my law partner for
9 a period fo time.

10 MR. CHALLY: That's all the
11 questions I have.

12 THE WITNESS: Can I go home?

13 MR. BELL: No questions.

14 MR. SMITH: No questions for the
15 state.

16 THE VIDEOGRAPHER: This concludes
17 the deposition of Dukes Scott. The time is
18 17:40. We are now off the record.

19 (The deposition concluded at 5:40 p.m.)

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1 STATE OF SOUTH CAROLINA

2 COUNTY OF GREENVILLE

3 REPORTER'S CERTIFICATE

4 I, Rebecca L. Arrison, a Notary Public in and for
5 the State of South Carolina, do hereby certify that
6 there came before me on the 7th day of November, 2018,
7 the person hereinbefore named, who was by me duly
8 sworn to testify to the truth and nothing but the
9 truth of his knowledge concerning the matters in
10 controversy in this cause; that the witness was there
11 upon examined under oath, the examination reduced to
12 typewriting under my direction, and the deposition is
13 a true record of the testimony given by the witness.

14 I further certify that I am neither attorney or
15 counsel for, nor related to or employed by, any
16 attorney or counsel employed by the parties hereto or
17 financially interested in the action.

18 IN WITNESS WHEREOF, I have hereto set my hand,
19 this 12th day of November, 2018.

20

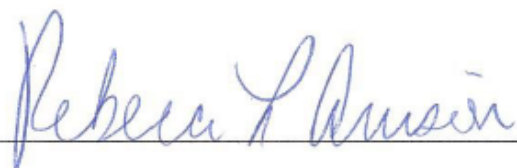
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Rebecca L. Arrison, Notary Public

My Commission Expires: 3/28/2027

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