

**BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COLUMBIA, SOUTH CAROLINA**

CM #18-39

December 14, 2018

1:05 ~ 2:41 P.M.

COMMISSION MEMBERS PRESENT: Comer H. ‘Randy’ RANDALL, *Chairman*; Elliott F. ELAM, Jr., *Vice Chairman*; and COMMISSIONERS John E. ‘Butch’ HOWARD, Swain E. WHITFIELD, Thomas J. ‘Tom’ ERVIN, Justin T. WILLIAMS, and G. O’Neal HAMILTON

COMMISSION MEMBERS ABSENT: —

ADVISOR TO COMMISSION: Joseph Melchers, Esq.
GENERAL COUNSEL

PRESENTING AGENDA: James Spearman, Ph.D.
EXECUTIVE ASSISTANT TO COMMISSIONERS

STAFF PRESENT: Jocelyn G. Boyd, Chief Clerk/Administrator; F. David Butler, Esq., Senior Counsel; B. Randall Dong, Esq., Josh Minges, Esq., and David W. Stark, III, Esq., Legal Advisory Staff; Jerisha Dukes, Commissioners’ Staff; Douglas K. Pratt, William O. Richardson, Thomas Ellison, John Powers, Amanda Golebiowski, and Norman Scarborough, Technical Advisory Staff; Janice Schmieding and Afton Ellison, Clerk’s Staff; Patricia Stephens, Project Management Staff; Randy Erskine, Information Technology Staff; and Jo Elizabeth M. Wheat, CVR-CM/M-GNSC, Court Reporter.

**TRANSCRIPT / MINUTES
OF
COMMISSION BUSINESS MEETING**

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

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In accordance with S.C. Code § 30-4-80(E), the Public Service Commission hereby certifies that it has notified all persons, organizations, local news media, and all other news media requesting notification of the time, date, place, and agenda of this public meeting, by posting a copy of the Notice in its principal office, by e-mailing such Notice to all who request same, and by posting the Notice on the Commission's official Internet website.

P R O C E E D I N G S

1
2 **CHAIRMAN RANDALL:** Please be seated. I want
3 to welcome everyone to today's meeting. We'd like
4 to ask everyone to take a moment and bow for a
5 moment of silent meditation.

6 [Brief pause]

7 Thank you.

8 All right. Before we move into the business
9 at hand, I just want to take a moment to recognize
10 the gentleman sitting in the middle seat, on the
11 hot seat today: Dr. Jim Spearman. For some reason,
12 he thought it was appropriate to retire –

13 [Laughter]

14 – and is getting ready to leave us. So I
15 said, "Well, that's the way to go out with a bang,
16 Spear."

17 Dr. Spearman has been serving this Commission
18 for over 28 years, and we do appreciate – we're
19 going to properly roast him at a time when it's
20 good to properly roast, but we did want to say in
21 public today: Thank you for your service, Dr.
22 Spearman, and we appreciate everything you've done
23 for this Commission.

24 **DR. SPEARMAN:** Thank you.

25 **CHAIRMAN RANDALL:** All right. With that, I'll
26 turn it over to you.

27 **DR. SPEARMAN:** Mr. Chairman and Commissioners,
28 our first order of business would be to set the
29 next Commission meeting. If we are back on our
30 regular schedule, it will be next Wednesday,
31 December 19th, at 2 in the afternoon.

32 **CHAIRMAN RANDALL:** We're going to be meeting

1 at 11 a.m. –

2 DR. SPEARMAN: Eleven? Okay.

3 CHAIRMAN RANDALL: – next Wednesday.

4 MR. MELCHERS: Not that you care.

5 [Laughter]

6 DR. SPEARMAN: Yes, I will not be leading that
7 meeting next week. Okay.

8 CHAIRMAN RANDALL: For a guy retiring, he
9 already starts trying to change things around.

10 Yeah, we'll be doing that at 11 a.m., next
11 Wednesday.

12 DR. SPEARMAN: Mr. Chairman and Commissioners,
13 our items on the Utility Agenda for today: Docket
14 Nos. 2017-207-E, 2017-305-E, and 2017-370-E; these
15 are the V.C. Summer nuclear dockets, and they're
16 ready for final disposition.

17 CHAIRMAN RANDALL: Thank you.

18 So, we've done a lot of work on this, lately,
19 and before we move into the actual having someone,
20 who wants to, make a motion, I want to – I know
21 there's – we've had a lot of study going on, and I
22 want to make sure that all the Commissioners have
23 had a chance to talk about anything else they need
24 to talk about.

25 [Reference: Presentation Slide]

26 I've asked Staff to put together a slide.
27 It's very brief and very bare-bones, just with some
28 of the areas of interest, in case we had any other
29 issues, and we're not limited to these, if anybody
30 wanted to – if any of the Commissioners wanted to
31 say something about any of these.

32 So I'll open it up to Commissioners first,

1 before we move further.

2 Commissioner Hamilton.

3 **COMMISSIONER HAMILTON:** Mr. Chairman, this has
4 been a long process. It's been very interesting.
5 We've spent a lot of time. But the thing that I
6 would like to do at this particular time is thank
7 our staff. I don't know of anybody that has worked
8 harder to support us than the PSC Staff, from one
9 end to the other, each one of them have, anything
10 we've asked for. We've had thousands of pages of
11 transcript to go over. And they have helped us
12 organize, they've helped to get it – even they
13 helped me get mine into the meeting room. So I'd
14 like to thank you, and let you know that we do
15 appreciate you.

16 Thank you, Mr. Chairman.

17 **CHAIRMAN RANDALL:** Thank you, sir.

18 Commissioners, anything else that needs to be
19 said, before we move ahead? Commissioner Ervin.

20 **COMMISSIONER ERVIN:** Mr. Chairman, I want to
21 thank all the members of the public that appeared
22 at our three public hearings that were held in
23 Columbia, Aiken, and Charleston. They certainly
24 were helpful in focusing the Commission on the
25 plight of the ratepayers in terms of how this has
26 affected them, and continues to affect them going
27 forward. And so, while I know many of them are not
28 here, I hope they are watching online. Perhaps
29 they'll find out how much we appreciated their
30 appearances.

31 And I'd also like to thank the parties that
32 have participated. We had a number of Intervenors,

1 and they contributed quite a bit to the hearing, as
2 well, and as well as the parties. So I appreciate
3 all the efforts that you've made.

4 **CHAIRMAN RANDALL:** Thank you. Anything else,
5 Commissioners?

6 I'm glad we are live-streaming, just so
7 everybody can see it worldwide. You know, it's
8 hard not to say, "Hi, Mom and Dad." I know they're
9 watching, so...

10 [Laughter]

11 **COMMISSIONER WILLIAMS:** Mr. Chairman, before
12 you move on?

13 **CHAIRMAN RANDALL:** Yes, sir, Commissioner
14 Williams.

15 **COMMISSIONER WILLIAMS:** I just wanted to say
16 that I appreciate the thorough nature of this
17 process. I know that we have a big decision to
18 make, but one thing that can definitely be said is
19 that every issue that anyone had with New Nuclear
20 Development and how it turned out, had an
21 opportunity to say their piece.

22 This Commission did not leave any stone
23 unturned, and even the public received an
24 opportunity to make commentary at those public
25 night hearings that Commissioner Ervin referenced.

26 It's a difficult decision that we have to
27 make, but it's one where we definitely drilled down
28 to identify what the issues are before us and how
29 we need to move forward. And I appreciate the
30 thorough nature that the parties presented their
31 cases with, and the thorough nature that our staff
32 and the Commissioners reviewed the issues and

1 researched the issues, and the commentary made by
2 everyone who had interest in this matter.

3 So I just want to put on the record that this
4 has not been a fly-by-night decision. There have
5 been very, very interested parties who have labored
6 tirelessly to make sure that all the issues are on
7 the table. So we're going to be hard-pressed to
8 say at any time in the future that there was
9 information that we did not know. We have all the
10 information we need to make a decision, and we
11 couldn't have had that information without the
12 parties presenting their cases in such a thorough
13 manner. So I just want to share my appreciation
14 for that.

15 **CHAIRMAN RANDALL:** Thank you. Any others?
16 Commissioner Elam.

17 **COMMISSIONER ELAM:** Yes, Mr. Chairman. I will
18 have a motion in a moment, but I wanted to echo the
19 thanks to the parties, as well. This is the
20 longest, most paper-laden proceeding that I have
21 ever seen at this Commission. Perhaps Mr. Guild
22 can tell us about what it was like in the '70s
23 doing a nuclear case when we didn't have scanning
24 and online documents.

25 It's been a difficult case, I know, for all
26 the parties to represent their clients in something
27 that is as public as this is and as big as this is.
28 And it's not always easy to navigate your legal
29 issues in an environment like this.

30 I want to thank the ORS by name. I think they
31 have driven a lot of the issues in this proceeding,
32 and they deserve everyone's thanks for that. It is

1 also good that the parties have – while there has
2 been no real settlement of everything, they have
3 made the set of issues more narrow for us, and we
4 do appreciate that.

5 And unless anyone else has something, I would
6 like to make a motion.

7 **CHAIRMAN RANDALL:** Yes, sir. Proceed.

8 **COMMISSIONER ELAM:** Mr. Chairman, this motion
9 is the culmination of a long process for these
10 dockets. We have listened carefully and
11 extensively to a great number of stakeholders in
12 the SCE&G nuclear cases, and I believe that it is
13 now time to provide certainty and finality with
14 regard to the many issues in these cases.

15 First, I move we find that abandonment of the
16 nuclear construction by SCE&G was prudent in this
17 case, due to the bankruptcy of the general
18 contractor, Westinghouse, and the subsequent
19 withdrawal from the project by SCE&G's partner,
20 Santee Cooper, on July 31, 2017.

21 The remaining issues revolve around issues of
22 whether portions of the cost of the project were
23 prudent. As a result of the parties' efforts, no
24 party argues for reimbursement of capital
25 investment after March 12, 2015, which I move we
26 hold is a reasonable cut-off date for this
27 investment. With this ruling, we would remove from
28 consideration the effect on rates of the
29 withholding of information from ORS and this
30 Commission related to the SCE&G internal estimate-
31 at-completion calculations and the Bechtel Report.
32 We have heard conflicting testimony on the reasons

1 for the withholding of that information, but even
2 SCE&G recognizes the resulting loss of trust from
3 its lack of transparency. The company has agreed
4 to use the ORS date of March 12, 2015, as the end
5 date for reimbursement of capital investment –
6 further recognition of the harm that comes from a
7 lack of transparency. Although we have serious
8 concerns about these matters, we are economic
9 regulators who are responsible for setting rates.

10 Second, to address a concept advocated by
11 several parties to this case, I do not believe we
12 can lawfully implement securitization in this case.
13 Among other things, the South Carolina General
14 Assembly has not enacted a securitization law,
15 which would be necessary for implementation of such
16 a proposal. Accordingly, securitization is not
17 ripe for consideration for this Commission at this
18 time. The Commission is part of the executive
19 branch of South Carolina government, and cannot
20 legislate; rather, this Commission follows the law
21 as enacted by the General Assembly. This
22 Commission will continue to follow the law in this
23 case.

24 Next, with regard to the proposed merger of
25 SCANA and Dominion Energy, I move that we approve
26 the merger, with conditions to be outlined shortly,
27 and adopt Plan B-Levelized, including a 9.9 percent
28 rate of return on equity, with rates to be
29 established accordingly. In May of this year, an
30 average SCE&G monthly residential bill totaled
31 \$147.70.

32 **VOICE:** The merger is not in the favor of the

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people of South Carolina. We still have –

CHAIRMAN RANDALL: You need to sit down,
please.

VOICE: – some [indiscernible] –

CHAIRMAN RANDALL: No, no, no. We're not –

VOICE: – at the table.

CHAIRMAN RANDALL: Please sit down, or –

VOICE: This is not right –

CHAIRMAN RANDALL: – you're going to have to
leave.

VOICE: – and you know it.

CHAIRMAN RANDALL: Please sit down, and be
quiet.

VOICE: Y'all shut up. You ain't –

CHAIRMAN RANDALL: And please sit down, or
either we're going to ask you to leave.

VOICES: Dominion's buy-out is more of the
same. We want solar, for a change. Dominion's
buy-out is more of the same. We want solar, for a
change. Dominion's buy-out is more of the same.
We want solar, for a change. Dominion's buy-out is
more of the same. We want solar, for a change.
Dominion's buy-out is more of the same.

CHAIRMAN RANDALL: Okay.

VOICES: We want solar, for a change.
Dominion's buy-out is more of the same.

CHAIRMAN RANDALL: We're going to ask you –

VOICES: We want solar, for a change.

CHAIRMAN RANDALL: We're going to have –

VOICES: Dominion's buy-out is more of the
same.

CHAIRMAN RANDALL: – to ask these folks to

1 leave, if security would take them on out, please.
2 VOICES: We want solar, for a change.
3 Dominion's buy-out is more of the same. We want
4 solar, for a change. Dominion's buy-out –
5 CHAIRMAN RANDALL: We're going to take –
6 VOICES: – more of the –
7 CHAIRMAN RANDALL: – A short recess, and –
8 VOICES: – same. We want solar –
9 CHAIRMAN RANDALL: – and we'd like to have
10 these folks –
11 VOICES: – for a change.
12 CHAIRMAN RANDALL: – taken out of the room.
13 [WHEREUPON, a recess was taken from 1:17
14 to 1:28 p.m.]
15 CHAIRMAN RANDALL: Okay. Where were we?
16 [Laughter]
17 VOICE: Nine percent.
18 DR. SPEARMAN: Elliott's motion.
19 CHAIRMAN RANDALL: All right. Commissioner
20 Elam.
21 COMMISSIONER ELAM: Thank you, Mr. Chairman.
22 As an aside, before I continue my motion, I'm
23 looking Mr. Whitt right now, who represents the
24 Solar Business Alliance. And he's free to shake
25 his head one way or another when I say: I daresay
26 that solar folks have achieved more in this docket,
27 perhaps, than they have in several prior
28 proceedings.
29 MR. WHITT: [Nodding head.]
30 COMMISSIONER ELAM: Solar will be working
31 better as a result of this case than it has been.
32 I'll pick back up: I move that we propose –

1 approve the proposed merger, with conditions to be
2 outlined shortly, and adopt Plan B-Levelized,
3 including a 9.9 rate of return on equity, with
4 rates to be established accordingly.

5 In May of this year, an average SCE&G monthly
6 residential bill totaled \$147.70. At present,
7 under this Commission's legislatively ordered
8 temporary experimental rate, such an average
9 customer pays \$125.34 per month. I would note that
10 approval of Plan B-Levelized would result in an
11 average monthly bill of \$125.26 for an SCE&G
12 residential customer using 1,000 kilowatt-hours per
13 month.

14 I believe that Plan B-Levelized provides
15 significant customer bill relief for SCE&G's
16 customers without damaging SCE&G's creditworthiness
17 or putting at risk SCE&G's financial soundness or
18 ability to provide reliable service to the
19 company's customers, all of which are of great
20 importance to its ratepayers. Plan B-Levelized
21 provides for SCE&G/Dominion to voluntarily write
22 down capital costs, which were \$4.7 billion, by
23 about a little under \$2 billion, including
24 impairments taken to date. The remaining amount is
25 about \$2.7 billion.

26 These benefits can only be provided to SCE&G
27 and its customers as merger benefits. No other
28 proposed plan can provide the same combination of
29 benefits that Plan B-Levelized can provide. I move
30 that the other proposed plans be rejected. I note
31 that the benefits available to ratepayers with the
32 adoption of this Plan are in addition to the

1 benefits that ratepayers will receive from the
2 proposed settlement of the civil lawsuits.

3 As part of the project, SCE&G undertook a
4 major expansion and strengthening of the backbone
5 of SCE&G's transmission system. The total amount
6 invested was approximately \$322 million and the
7 company has testified that all aspects of the
8 project will be in service as of January 31, 2019.
9 Only the financing cost associated with the \$275
10 million in capital is in rates today, which is the
11 equivalent to approximately \$32 million in revenue
12 requirement. The return of capital of the entire
13 amount invested and the financing cost of the
14 remaining approximately \$47 million are not in
15 rates today. A determination of the rate-base
16 treatment will be determined in the next rate case.

17 With regard to specific merger conditions, the
18 Joint Applicants made certain proposals.
19 Recommendations from other parties use the Joint
20 Applicants' list as a basis for discussion.
21 Therefore, I move that we adopt the conditions
22 proposed by the Joint Applicants, with the
23 following exceptions and additions:

24 New Nuclear Development – NND – cost recovery
25 exclusions: In addition to the Joint Applicants'
26 commitments to exclusions of certain costs to be
27 prospectively excluded from SCE&G's NND Project
28 rate base and SCE&G's cost of service for
29 ratemaking purposes, I move that we adopt the more
30 ratepayer-protective ORS description of excluded
31 litigation expenses as set out in ORS proposal
32 paragraph five. I also note that SCE&G has agreed

1 that the approximately \$180 million initial capital
2 investment in the Columbia Energy Center, a 540
3 megawatt combined-cycle natural-gas-fired power
4 plant located in Gaston, South Carolina, will be
5 excluded from rate base and rate recovery, and
6 therefore not a capital investment for which
7 ratepayers will be responsible.

8 Affiliate transactions: In addition to the
9 Joint Applicants' commitments, I move we adopt the
10 ORS recommendation regarding Commission approval
11 for any proposed structural reorganization and the
12 ORS requirement for competitive sourcing, but with
13 the removal of "least cost" language, because
14 purchases that have the "least cost" are not always
15 the most reasonable and prudent for the company or
16 its customers, because it must take into account
17 total delivered cost, reliability, availability,
18 and diversity of supply. However, the Commission's
19 expectation is that, absent such a showing, the
20 company will seek out the least-cost option.

21 As for business operations: In addition to
22 the Joint Applicants' commitments regarding
23 business operations, I move that the corporate
24 offices of SCE&G shall stay in Cayce, South
25 Carolina, unless otherwise approved by this
26 Commission. Further, Dominion shall add a current
27 member of the SCANA board or executive management
28 to its board as soon as practicable.

29 As proposed by ORS, I move we further require
30 that, within three months of the merger, Dominion
31 and SCE&G shall adopt and adhere to a Code of
32 Conduct developed in collaboration with the ORS and

1 approved by the Commission. Such Code of Conduct
2 shall be developed to assure that the utility and
3 its officers, employees, and agents act to assure
4 that they adhere to the duty to avoid the
5 concealment, omission, misrepresentation, or
6 nondisclosure of any material fact or information
7 in any proceeding or filing before the Commission
8 or to ORS.

9 Employee matters: Dominion has committed to
10 minimize reductions in local employment in part by
11 allowing some of the Dominion Energy Services,
12 Incorporated, employees in shared-services
13 functions to be located in Cayce where it makes
14 economic and practical sense to do so. I move we
15 require Joint Applicants to report on their
16 progress regarding this commitment twice annually
17 for the next three years. I would also note that
18 Dominion has committed to extend salary protections
19 to non-executive employees an additional six
20 months, to July 1, 2020.

21 Service quality: ORS and this Commission
22 support all of the company commitments on service
23 quality, which should be adopted. However, I
24 believe that we should reject as unnecessary
25 additional ORS requests, since the hearing record
26 did not support a more severe focus on SCE&G's
27 ratepayers' service quality experience.

28 Financial: The Joint Applicants agree, to the
29 extent any long-term debt issued following the
30 merger is more expensive as a result of the merger,
31 the cost of such issuances shall be reduced to the
32 average for purposes of calculating overall cost of

1 debt in the first base-rate proceeding following
2 the closing of the merger. We should adopt this
3 proposal, and I move we reject the ORS proposal
4 that differs from that.

5 Community: The Joint Applicants commit to
6 increased giving of \$1 million per year for at
7 least five years, and to maintain SCE&G's corporate
8 presence in the community. This proposal should be
9 adopted. ORS has nothing in the record or even in
10 its proposed order to support its additional
11 proposals on community commitments. However, based
12 on a colloquy between Witness Blue and Commissioner
13 Howard, I understand that Dominion has an
14 EnergyShare Program in Virginia that is somewhat
15 similar to a voluntary Round-Up Program several
16 rural cooperative utilities have in South Carolina.
17 The co-ops' program allows ratepayers to choose to
18 round their utility bills up to the next whole
19 dollar. These amounts can be used to alleviate
20 financial pressure on low-income members of the
21 residential ratepayer class caused by electric
22 bills. I strongly encourage Dominion to consider
23 implementing a similar program for its South
24 Carolina ratepayers.

25 Merger savings and rate-case stay-out: The
26 Joint Applicants have committed that Merger Savings
27 will be recovered in the next rate case, to be
28 filed May 1, 2020; further, that they will provide
29 a total of \$2.45 million refund to natural gas
30 customers as of 2019, 2020, and 2021. This is
31 reasonable and should be adopted. I believe that
32 we should reject as premature the ORS

1 recommendation to quantify estimated savings.

2 Again, Dominion has committed that a lot of
3 those merger costs would not be passed on – if I
4 misspoke there.

5 Transco Settlement: In that settlement, the
6 Joint Applicants commit to establishing a Request
7 for Proposal – RFP – for commitments of over
8 100,000 dekatherms a day, and agree not to contract
9 for capacity with an interstate pipeline unless
10 with a least-cost provider or with Commission
11 approval. I move that we approve this commitment,
12 with rejection of additional proposed requirements
13 as outside the Commission’s jurisdiction and a
14 matter for the South Carolina legislature.

15 I also move that we approve the settlement
16 agreements between the Joint Applicants in this
17 case and Transcontinental Pipe Line, and, in
18 principle, between the Joint Applicants and the
19 South Carolina Solar Business Alliance, with some
20 slight modifications. I do not believe that these
21 agreements should rise to the level of merger
22 conditions, but should exist as separate
23 agreements.

24 With regard to the Settlement Agreement
25 between the Solar Business Alliance and the Joint
26 Applicants, I move that we interpret paragraph
27 three to mean that the Integrated Resource Plan
28 should not be modeled with sensitivities for an
29 imputed value of at least \$25 per ton for carbon
30 emissions for all scenarios. Certainly, one
31 scenario could be modeled accordingly, but the \$25
32 a ton should not limit all scenarios presented, or

1 the agreement would not be consistent with State
2 law on integrated resource plans. Further, I move
3 that the companies' commitment to funding an
4 outside consultant and an independent evaluator to
5 examine IRPs shall be provided through shareholder
6 funds and not ratepayer funds.

7 Further, I move that the ORS proposal to
8 return all revised rates collected after
9 abandonment on July 31, 2017, as a regulatory
10 liability for refund of revised rates, be rejected.
11 The purpose of revised rates was to allow recovery
12 for the cost of capital that had been spent for –
13 in the past period. Later abandonment does not
14 change the fact that the money for cost of capital
15 for a given period has, in fact, already been
16 spent. The revised rates proceedings approved
17 recovery of those specific expenditures. In
18 addition, I move the adoption of the Adjustments to
19 Costs as proposed by the Joint Applicants' proposed
20 order.

21 I also move that we issue a written Order
22 further detailing this motion, and that all motions
23 made in the case not specifically addressed in the
24 Order be deemed denied, and any unaddressed
25 objections be overruled.

26 I move that we instruct Staff to prepare a
27 proposed Notice to Customers relating to this
28 motion, which this Commission will address at its
29 next business meeting.

30 I move that the actions in Docket Nos. 2017-
31 207-E and 2017-305-E be dismissed, because of our
32 holdings regarding the issues in Docket No. 2017-

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370-E, as outlined above.

I further move that the motion *in limine* as filed by the Joint Applicants be denied as moot.

Mr. Chairman, clearly, my proposed motion will not completely satisfy the concerns of everyone with an interest in this case. However, I believe it has enormous value for all SCE&G ratepayers, stakeholders, and the State as a whole. It is my wish that more could be done; however, this Commission has to utilize the record in this case to provide the best remedy – or the least worst remedy – that it can under the circumstances. I believe that this motion provides great value to everyone concerned, and I move that it be granted.

That's my motion, Mr. Chairman.

CHAIRMAN RANDALL: Thank you, Commissioner Elam.

You've heard Commissioner Elam's motion. Are there questions or comments? Commissioner Howard.

COMMISSIONER HOWARD: Thank you, Mr. Chairman. My first thought was to deny the merger and keep SCE&G a South-Carolina-owned utility.

VOICE: Amen.

COMMISSIONER HOWARD: However, after considering all options, I'm convinced that the merger is in the best interest of SCE&G ratepayers and the State of South Carolina. I would have to accept the fact that SCE&G would be financially strapped, and this would limit severely what the company would be able to accomplish.

Realizing that, one seldom-mentioned group of victims in this debacle is the 2000-plus employees

1 that had absolutely nothing to do with the decision
2 that has us here. They have gone about their work
3 to ensure that customers had reliable electricity
4 while not knowing what the future holds for them.

5 When a company's in a financial bind, one of
6 the first places they cut is the workforce
7 reduction. Dominion has agreed to maintain the
8 same level of employment for non-executives until
9 July 1, 2020.

10 Also, dealing with reliability, one area of
11 cost-cutting is vegetation management, which could
12 have a negative effect on reliability.

13 In the mixture must be, however, the
14 availability to access of the capital market. At
15 best, with the rating of SCE&G, would be high
16 interest rates that would be passed on to the
17 customers. For this reason and others mentioned in
18 the motion, I support the merger agreement and
19 Commissioner Elam's motion.

20 Thank you, Mr. Chairman.

21 **CHAIRMAN RANDALL:** Thank you, Commissioner
22 Howard.

23 Commissioner Whitfield.

24 **COMMISSIONER WHITFIELD:** Mr. Chairman. Thank
25 you, Mr. Chairman.

26 Mr. Chairman, you closed this hearing by
27 stating that this Commission could not make all
28 parties happy. State Law empowers this Commission
29 to fix rates and set rates and provide for safe and
30 reliable power. It is this Commission's job – our
31 job – to bring finality and certainty to this
32 matter, while providing the maximum amount of

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relief to the ratepayers. Our ratepayers and our State need closure to this matter. And for continued economic development, growth, and capital investment in our State, State regulatory certainty is needed for us to continue and to move forward.

Mr. Chairman, after nearly a month of testimony, evidence and cross-examination, and everything included in the record of this case. I believe Commissioner Elam's motion, in a very thorough and detailed and methodical way, is the only way forward –

VOICE: No.

COMMISSIONER WHITFIELD: – for our State.

VOICE: No. No, no.

COMMISSIONER WHITFIELD: Mr. Chairman, it pains me – it pains me that SCANA and SCE&G will no longer be a standalone company. However, I note that utilities in our neighboring states in the Southeast have virtually all become part of multistate holding companies.

Mr. Chairman, lastly, I would like to thank all the parties that participated in this proceeding and – until just a few minutes ago, for the way you conducted yourselves – for your hard work, your viewpoints, your information, ideas that you brought before this Commission. It was certainly valuable to us and brought a lot more into the record by your participation. It actually was good to see all of you participate and share your interest, concern, and passion for our great State and its citizens.

Mr. Chairman, again, as you have stated, we

1 cannot make everyone happy.

2 **VOICE:** Just the rich.

3 **COMMISSIONER WHITFIELD:** But it is my belief
4 that Commissioner Elam's motion is our best path
5 forward, and I support his motion.

6 **CHAIRMAN RANDALL:** Thank you, Commissioner
7 Whitfield.

8 Commissioner Hamilton.

9 **COMMISSIONER HAMILTON:** Thank you, Mr.
10 Chairman.

11 Mr. Chairman, my path in this journey has been
12 kind of a long one, too. Commissioner Howard, I
13 didn't realize you and I both had the same thought
14 of no-merger. And I thought that was the right
15 thing and hopefully it would work out. But as we
16 received testimony and received and started the
17 case, it became evident to me that, if we continued
18 the path that I had hoped this Commission would
19 follow, that it would lead the company into
20 bankruptcy, and the ratepayers would be worse off
21 now than they were when we started.

22 From information that we received during the
23 case, we found out that, again, rates for our
24 ratepayers in South Carolina will be competitive in
25 the Southeast, and our industrial rates will be
26 very competitive, which should lead to economic
27 growth again in South Carolina that would mean a
28 great deal to everyone sitting in this room and all
29 the ratepayers in the State.

30 Again, I know some are not happy. But the
31 decision has been made, and I hope we'll join
32 together to see that the combination of SCANA and

1 Dominion will be a perfect thing for the State of
2 South Carolina.

3 Thank you, Mr. Chairman.

4 **CHAIRMAN RANDALL:** Thank you, Commissioner
5 Hamilton.

6 Commissioners. Commissioner Williams.

7 **COMMISSIONER WILLIAMS:** Thank you, Mr.
8 Chairman.

9 Unlike Commissioner Hamilton and Howard and
10 Whitfield and Elam, and even the Chairman, I am new
11 to this Commission. And while it's been a long-
12 fought battle, going way back to 2008 or even
13 earlier, I'm relatively new to even the issue. And
14 my goal, as a Commissioner, was to get the best
15 possible deal for the people of South Carolina.
16 And it weighed heavily on my heart that a company
17 like SCE&G would no longer be a standalone company.
18 And one of the reasons I appreciated the
19 thoroughness of the parties in presenting their
20 case to this Commission is because, right now,
21 today, we're going to make a decision based on the
22 evidence presented, and ten years from now it's
23 going to be hard-pressed for us to say that we
24 didn't know something. We know all the facts. We
25 know all the consequences. There are going to be
26 some folks that are working at SCE&G now that, in
27 July 2020, may not be working there.

28 **VOICE:** Amen.

29 **COMMISSIONER WILLIAMS:** There may be some folks
30 that leave even sooner than that. And that's an
31 unfortunate consequence of this merger, but, on the
32 other hand, we don't know whether or not SCE&G

1 could stand alone, as much as we may want them to,
2 especially considering all the testimony that came
3 out from current employees and even independent
4 experts. And with the stakes so high, it would be
5 very dangerous for us to pursue a course that does
6 not have any certainty.

7 And one of the things I appreciate about
8 Commissioner Elam's motion is that it provides some
9 certainty. So while we don't know exactly what's
10 going to happen with those jobs down at SCE&G, what
11 we do know is that Commissioner Elam's motion is
12 going to allow for Dominion to come in biannually
13 and give us a report, at least for the first three
14 years, about what's happening with employment, how
15 many folks are accepting packages, what are the
16 current state of affairs, so at least we can keep a
17 watchful eye. And while we appreciate Dominion –
18 and I would even go to say that we trust them – we
19 still have to verify. We have to verify. And I
20 appreciate that element of your motion,
21 Commissioner Elam, to make sure that Dominion comes
22 in and gives a report to this Commission on what's
23 happening with their employees.

24 I also appreciate Commissioner Howard asking
25 one of the Dominion employees about low-income
26 people, because we have a lot of folks on a low
27 income here in South Carolina.

28 **VOICE:** Amen.

29 **VOICE:** Uh-huh.

30 **COMMISSIONER WILLIAMS:** And so it's important
31 that we make sure that we think about these folks.
32 And I strongly suggest that Dominion implement the

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program that they have in Virginia currently, where a customer can round up on their bill, to make sure there's a pot of money for some of those folks that are not doing so well. I also strongly suggest that the basic facility charge remain close to what it is – I think it's around \$8 for SCE&G.

VOICE: Twenty-two [\$22].

COMMISSIONER WILLIAMS: – because we don't want those people who can't speak for themselves to be taken advantage of.

And I also appreciate Dominion agreeing to spend an additional \$1 million in the community, in addition to what SCE&G has historically contributed. SCE&G has been a good corporate citizen up and to this point, and we want to make sure that that presence is continued to be felt in the community. We have a great coast here, and it may be possible for Dominion to have a shareholders' meeting somewhere in the State of South Carolina, or even a Board of Directors' meeting, to make sure they stay fully vested in the State.

And, finally, I also appreciate the fact that this process has allowed the Solar Business Association – Alliance, I should say, to get some concessions and to make sure that solar can continue to be a viable part of South Carolina energy generation.

Mr. Chairman, you said it once, and you said it again: No one will be happy with any decision that we've made here today, whether we adopted Plan B-L, the original Customer Benefits Plan, the

1 ORS Plan, or we shot down the merger and forced
2 SCE&G to go at it on their own. No one would be
3 happy. Not one soul. But at the end of the day,
4 it's incumbent upon us to make a decision that
5 provides the greatest good for the greatest number
6 of people here in South Carolina. And Plan B-L
7 does that.

8 Commissioner Elam, thank you for your motion,
9 and I'm happy to support it.

10 **CHAIRMAN RANDALL:** Thank you, Commissioner
11 Williams.

12 Commissioner Elam.

13 **COMMISSIONER ELAM:** Well, just so I'm not
14 really commenting on my own motion, I guess, I
15 thought I needed to clear up a couple of things
16 from the hearing.

17 Near the close of the hearing, I asked
18 Dominion to provide different scenarios if they
19 were going to split up the amount of money between
20 refunds and reduction of rates going forward. What
21 we got showed that the ORS position to go strictly
22 with the rates going forward was the more desirable
23 one. Customers would have been paying back
24 whatever they would've gotten from a refund in a
25 short time and, for the remaining 20 years,
26 would've still been paying more than they would
27 have otherwise. So that's what got me there.

28 I was kind of like Commissioner Howard. I
29 initially thought that SCE&G could weather this,
30 whether it was through some type of securitization
31 or showing an affiliate, but the simple fact is
32 they chose not to do that, and where we are now, I

1 believe that this plan that Dominion has offered
2 will create the certainty – it will create the
3 certainty in rates for customers, for the business
4 community, for the economic development community.
5 This will not have anything hanging out there.

6 So that's what got me there. Staff may tell
7 you that I got there kicking and screaming, but,
8 I'm comfortable with the motion as I made it. And
9 I think you, Mr. Chairman.

10 **CHAIRMAN RANDALL:** Thank you, Commissioner
11 Elam.

12 Commissioner Ervin.

13 **COMMISSIONER ERVIN:** Thank you, Mr. Chairman.

14 I appreciate the hard work that my fellow
15 Commissioners have done in this case, and, while
16 I'm in general agreement with the motion that has
17 been offered, I have some alternatives, amendments,
18 that I'd like for the Commission to consider.

19 Of course, we're going to file a formal
20 written order in this case, on or before December
21 21st, 2018, so we're working on a proposed order;
22 it hasn't been finalized. But my preference would
23 be for the Commission to find that, as a part of
24 our prudency determination, that SCE&G
25 intentionally hid significant and relevant
26 information from the Commission and from ORS. And,
27 specifically, in the March 2015 filing, SCE&G
28 misled the Commission by failing to disclose its
29 own internal cost estimates, which estimated the
30 project would require an additional \$1.2 billion to
31 complete. Instead, SCE&G senior management made
32 the conscious decision to only inform the

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Commission of the consortium's lower forecasted cost of \$698 million and its constrained substantial completion dates.

Now, SCE&G engaged in a second serious act of deception by hiding both the existence and the results of the Bechtel assessment from the ORS and from the Commission. Instead, SCE&G made a decision to knowingly promote the consortium schedule of completion as an accurate schedule for the project.

And for those reasons. I believe that our formal written order should contain a finding of fact and conclusion of law that any and all costs that were expended after the March 12, 2015, date should be disallowed. I think that finding is important for the factual basis that is required by law to pick a date. And it's not just enough for the parties to agree on a date, in my view, but that we need a specific finding as to why the March 12, 2015, date is the date of disallowance, forward.

The next thing I wanted to offer to my fellow Commissioners' consideration is an amendment to the motion which would adopt the analysis of Mr. Baudino, who is the expert witness called by the Office of Regulatory Staff. He went through several – at great lengths in explaining how he arrived at the return on equity of 9.1 percent. And I'm not going to read the entire testimony; we all know what he said. But just to reiterate, he ran the analysis through reliable, recognized standards around the country, and it's his expert

1 opinion that the 9.1 percent return on investment
2 is appropriate, based on current market conditions,
3 primarily using the DCF model. The DCF model
4 relies on current stock prices in the marketplace
5 and has normally been regarded by this Commission
6 as the best indicator of the returns investors are
7 requiring in the current marketplace for
8 investment-grade regulated utility companies. So
9 there's certainly a strong substantial support for
10 his opinion. And, alternatively, I would move to
11 strike 9.9 percent return on equity and substitute
12 9.1 percent return on equity.

13 And I've got a couple more. You want me to
14 stop and you want to vote on it, as we go, or do
15 you want to hear them all?

16 **CHAIRMAN RANDALL:** Let's just hear them all,
17 and then we'll –

18 **COMMISSIONER ERVIN:** Okay. All right. The
19 next area that I wanted to ask you to consider
20 would be the findings on the merger condition that
21 relates to affiliate transactions.

22 We heard a great deal of testimony and
23 evidence presented by the parties and intervenors
24 about how that might affect the ratepayers, going
25 forward. While the Joint Applicants affirm a
26 commitment to work collaboratively with the
27 Commission and the ORS, should the merger go
28 forward, it's clear that Dominion will have
29 significant control over the sale, distribution,
30 transmission of natural gas in South Carolina. And
31 while they don't have current plans to expand their
32 Atlantic Coast Pipeline into our State, I think

1 it's fair to say that they most likely will. And
2 when they do, that opens up the possibility that
3 SCANA would be purchasing natural gas from
4 Dominion, and this would be an affiliate
5 transaction, which I believe ORS has made a
6 significant contribution by giving us some guidance
7 to protect South Carolina's captive ratepayers to
8 the risk of overpayment.

9 So I would move that their recommendation as
10 relates to a merger condition on affiliate
11 transactions be adopted in its entirety, beginning
12 with page 107 of their recommended Commission
13 findings, and continuing through page 108 and top
14 of page 109. Otherwise, I think we run the risk of
15 having another boondoggle down the road for
16 ratepayers, when they're captive and really don't
17 have any say –

18 **VOICE:** Amen.

19 **COMMISSIONER ERVIN:** – on how this would be
20 handled.

21 The next item that I want you to consider is
22 the most-favored-nation clause. ORS has
23 recommended that the Commission adopt a most-
24 favored-nation clause in its final order. And what
25 that would do is guarantee that both SCE&G electric
26 and natural gas customers would receive pro rata
27 benefits and protections equivalent to those that
28 may be approved in another state jurisdiction. We
29 heard testimony about that, and I think it would be
30 beneficial to the ratepayers to have that
31 protection.

32 And if we could take up those amendments, with

1 those protections and additions to be included, I'm
2 in a position to support the merger with those
3 amendments and conditions, Mr. Chairman.

4 **CHAIRMAN RANDALL:** Okay. Let's go back to
5 amendment one, and let's have comments. And
6 restate that one, again, Commissioner, and I want
7 to ask other Commissioners for comment.

8 **COMMISSIONER ERVIN:** Yes, sir.

9 **CHAIRMAN RANDALL:** What the motion itself
10 would be.

11 **COMMISSIONER ERVIN:** Yes, sir. The motion
12 itself would require a finding of imprudence by
13 SCE&G, for the reasons I stated earlier. I believe
14 the law would require a finding on imprudence, for
15 us to – you can't just pick a date out of the air,
16 and I don't think the parties can really stipulate
17 a date. I understand they don't really oppose it,
18 but we've heard from some Intervenors that have
19 other ideas. So I think there needs to be a
20 factual basis for the March 12, 2015, finding of
21 imprudence.

22 **CHAIRMAN RANDALL:** Okay. Commissioners?

23 **COMMISSIONER ELAM:** Mr. Chairman, I guess it's
24 on me, as my motion. As I first understood
25 Commissioner Ervin's motion, it was that the
26 Commission find that SCE&G intentionally withheld
27 information and that they misled the Commission. I
28 think the motion addresses the fact that we believe
29 we were misled. It just – it also recognizes, I
30 think, that it's really not – it doesn't directly
31 impact the date they got to with ORS. The March
32 12, 2015, date, I believe, is supported by ORS's

1 position in the case, that that is the point after
2 which they can, with a large enough degree of
3 confidence, make a case that SCE&G was imprudent.
4 They have not stated that they believe there's, at
5 least, sufficient evidence to go back further, as
6 far as disallowing any cost recovery.

7 **COMMISSIONER ERVIN:** Commissioner Elam, just
8 to be clear, I'm not suggesting we go back further.
9 I just think there needs to be a factual finding,
10 because this order is going to have precedential
11 value. And what it does, it puts all utilities
12 that are regulated by the Public Service Commission
13 on notice that, if they do, in the future, hide or
14 misrepresent facts that should be known to the
15 Office of Regulatory Staff and the Commission, that
16 they are subject to a finding of imprudence. And
17 so for the precedential nature of the order itself,
18 I think we need that finding.

19 **COMMISSIONER WILLIAMS:** Mr. Chairman, just a
20 point of clarification.

21 **CHAIRMAN RANDALL:** Yes, sir.

22 **COMMISSIONER WILLIAMS:** Commissioner Ervin, you
23 tell me if this is correct. What I hear you saying
24 is that you want us to address it very specifically
25 as opposed to casually stating that there may or
26 may not have been a deliberate attempt to mislead
27 the Commission, and actually pick a date.

28 **COMMISSIONER ERVIN:** Yes, sir, that's exactly
29 right. I think it's very important, for a number
30 of reasons. It lets the public know that this kind
31 of conduct is not going to be tolerated in the
32 future. And not just by SCE&G, but any regulated

1 utility that comes before us, if they choose to
2 hide, mislead, misrepresent facts willfully and
3 knowingly, when they're sitting on the truth and
4 not sharing it with us, that is conduct that has to
5 be recognized as imprudent, to say the least. And
6 we need a specific finding, if for no other reason
7 than for the precedential value of it.

8 **COMMISSIONER WILLIAMS:** Commissioner Elam, let
9 me ask you this, sir. Would such a finding kill
10 the merger, in your opinion?

11 **VOICE:** Yep.

12 **COMMISSIONER ELAM:** No, I don't know that it
13 would. I just think that, given where SCE&G is and
14 where the Office of Regulatory Staff is, that that
15 finding is unnecessary, and I don't know if that
16 crosses over a little bit into a criminal element
17 that some of these executives may be facing. I
18 just don't know that it is necessary to the ruling.
19 In concept, I will say, yes, I believe we had
20 information withheld from us. I think everybody
21 has said that. As far as intent, I don't know that
22 we necessarily have adequate information to
23 establish that kind of intent –

24 [Indiscernible dialog from audience]

25 – or whether that matters.

26 **CHAIRMAN RANDALL:** [Indicating.] I'm going to
27 ask everybody in the audience to please be quiet,
28 or you're going to leave.

29 Go ahead.

30 **COMMISSIONER ELAM:** I think that the order –
31 the result is an implicit, at least, recognition
32 that we didn't have all the information that we

1 should have had.

2 **COMMISSIONER ERVIN:** And, Mr. Elam, I'd simply
3 point out that we have a different burden of proof,
4 as you know. Anyone that's accused is presumed to
5 be innocent until proven guilty beyond a reasonable
6 doubt. And so we're not talking about a criminal
7 finding at all; what we're talking about is just,
8 by the preponderance of the evidence, the
9 Commission finds that it was imprudent. And under
10 the case law, I think that's required for us to –
11 we just can't pick a date out of the air. And the
12 parties shouldn't be allowed to stipulate a date,
13 in my view, because the other Intervenors were
14 working toward an earlier date. They presented
15 testimony and evidence about that. I don't think
16 they met their burden of proof. But I'm willing to
17 go with the March 12, 2015, date, but it has to be
18 a factual basis for it, and the factual basis is
19 the willful conduct of SCE&G. And I would
20 encourage the Commission to adopt it, as part of
21 its final order.

22 **CHAIRMAN RANDALL:** Commissioner Elam.

23 **COMMISSIONER ELAM:** I believe that ORS's
24 Witness Jones provided the basis for the March 12,
25 2015, date. Beyond that, like I said, I don't know
26 that it's necessary to the decision, and the effect
27 of it is the same. And I guess I would – unless
28 there's something else – I would call the question.

29 **COMMISSIONER HAMILTON:** Mr. Chairman, I'd move
30 to call the question.

31 **CHAIRMAN RANDALL:** Okay. Hang on. I'm going
32 to confer with our attorney for one second, and

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then we'll move ahead.

[Brief pause]

Commissioner Williams, did you want to say something else? You had your light on.

COMMISSIONER WILLIAMS: I believe – has the question been called on the amendment?

CHAIRMAN RANDALL: I did, but –

COMMISSIONER HAMILTON: The motion's been made –

CHAIRMAN RANDALL: – I wanted – the motion's been made –

COMMISSIONER HAMILTON: – but the Chairman hasn't accepted it.

CHAIRMAN RANDALL: We're going to –

COMMISSIONER WILLIAMS: No, I'm good with the – I'm good with the question.

CHAIRMAN RANDALL: Okay. All in favor of Commissioner Ervin's amendment, please say "aye"?

COMMISSIONER ERVIN: Aye.

CHAIRMAN RANDALL: All opposed, "no"?

COMMISSIONERS_[EXCEPT C. ERVIN]: No.

CHAIRMAN RANDALL: Then the motion is defeated; the amendment's defeated.

VOICE: Shame.

VOICE: Oh, no.

CHAIRMAN RANDALL: Next amendment.

Please be quiet [indicating].

VOICE: Shut the hell up. They don't want to hear you.

CHAIRMAN RANDALL: Okay. Amendment two.

COMMISSIONER ERVIN: Amendment two was the insert 9.1 return on equity.

1 **CHAIRMAN RANDALL:** I think that was three.
2 You were talking about Bechtel, something about
3 Bechtel.

4 **MR. MELCHERS:** Bechtel was part of –

5 **COMMISSIONER ERVIN:** That was part of my
6 number one, actually.

7 **MR. MELCHERS:** Number two is the Baudino
8 analysis, 9.1 for 9.9.

9 **CHAIRMAN RANDALL:** I mislabeled it. Sorry.
10 Okay, so let's go back and state that, as well.

11 **COMMISSIONER ERVIN:** Yes, sir. The Baudino
12 expert witness by the Office of Regulatory Staff
13 went through an analysis, and – which is widely
14 recognized in the industry – and found that 9.1
15 percent should be the return on equity in this
16 case, and I so move.

17 **CHAIRMAN RANDALL:** Okay. You've heard –
18 Commissioner Elam?

19 **COMMISSIONER ELAM:** I would – the response I
20 would have is that the late-filed exhibit that I
21 requested, requesting where the rates would go if
22 the calculations were based on 9.1 versus 9.9
23 showed a very de minimus reduction in rates.
24 Dominion had a footnote saying that it would mess
25 up the merger economics, and I don't automatically
26 buy into that because there have been other things
27 in this case that would mess up the merger
28 economics, but didn't. It just got down to the
29 point where getting the certainty and getting this
30 done, this is another one of those things I was
31 dragged kicking and screaming on, but enough of a
32 difference – there was not enough of a difference

1 to make this a deal killer. So that's why I agreed
2 to this and why I believe we should stick with the
3 9.9.

4 **CHAIRMAN RANDALL:** Commissioner Howard.

5 **COMMISSIONER HOWARD:** Mr. Chairman, I looked
6 at all the ROEs, 2017, and the average of all those
7 ROE's nationwide were 9.5. I, personally, feel 9.1
8 is too low. We've got a lot of things happening in
9 the electric market – grid modernization, and all
10 this – and I see the need of needing to go to the
11 capital market for infrastructure improvement,
12 among other things. I don't think 9.1 would be an
13 attractive percentage to go to the market with. I
14 feel 9.9 is much better. Nine point six [9.6]
15 would be the average. Baudino mentioned 9.6 as an
16 average in his testimony; however, in his motion_[sic],
17 he put 9.1.

18 So 9.1 and 9.9 are the only two numbers that
19 we have in the record as a part of the case, so
20 consequently, with me thinking 9.1 is too low to
21 offer the marketplace, I would go to 9.9.

22 **COMMISSIONER WILLIAMS:** Mr. Chairman.

23 **CHAIRMAN RANDALL:** Commissioner Williams.

24 **COMMISSIONER WILLIAMS:** Commissioner Howard,
25 do you know the difference in a 9.1 and 9.9 ROE on
26 the average customer's bill?

27 **COMMISSIONER HOWARD:** I would yield to
28 Commissioner Elam. I think he did those. I think
29 like 50 cents, or something?

30 **COMMISSIONER ELAM:** It was 32 cents a month.

31 **COMMISSIONER ERVIN:** Thirty-two [32] cents a
32 month per ratepayer for 20 years.

1 **COMMISSIONER WILLIAMS:** Commissioner Elam, do
2 you think, if we – so we’re talking about 32 cents
3 a month on the average customer’s bill, between 9.1
4 and 9.9. That’s right, Commissioner Elam?

5 **COMMISSIONER ELAM:** That’s right.

6 **COMMISSIONER WILLIAMS:** Now, has Dominion –
7 maybe I misread, but my understanding is that, if
8 we adopt the 9.1 rate of return or ROE, that
9 Dominion would walk away from the merger.

10 **COMMISSIONER ELAM:** There was a statement
11 saying that it would negatively impact the merger
12 economics. I don’t know that that’s a full-blown
13 walk-away. Probably something more along the lines
14 of they think they’ve gone far enough. But I
15 wouldn’t put words into their mouth.

16 **COMMISSIONER HAMILTON:** Mr. Chairman, I move to
17 call the question.

18 **CHAIRMAN RANDALL:** I just want to make sure
19 everybody has a chance to speak. Anything else
20 before we vote?

21 [No response]

22 Okay. On Commissioner Ervin’s amendment two,
23 all in favor, please say “aye”?

24 **COMMISSIONER ERVIN:** Aye.

25 **CHAIRMAN RANDALL:** All opposed, “no”?

26 **COMMISSIONERS**_[EXCEPT C. ERVIN]: No.

27 **CHAIRMAN RANDALL:** And the amendment is
28 defeated.

29 Okay. Next one, Commissioner Ervin. This is
30 all merger conditions.

31 **COMMISSIONER ERVIN:** Yes, sir. The merger
32 condition that was recommended by the Office of

1 Regulatory Staff on affiliate transactions. I
2 don't need to read over the whole thing, do I? You
3 can go to the order, itself, and read them. But
4 I'd move that we adopt the merger condition that
5 was requested in the ORS proposed order.

6 **CHAIRMAN RANDALL:** Commissioner Elam.

7 **COMMISSIONER ELAM:** Which condition are you
8 referring to?

9 **COMMISSIONER ERVIN:** I think it's on page 171
10 – let me check [indicating].

11 It ties into the Atlantic Coast Pipeline
12 concerns, and there's a discussion of it in two
13 different places in the proposed order. I would
14 call your attention to pages 133 and 134 of the
15 proposed ORS order. But, essentially, the motion
16 is that we should scrutinize affiliate transactions
17 and that regulatory conditions should ensure
18 vigorous ongoing oversight of affiliate
19 transactions, and the Commission, in its final
20 order, should find that neither SCE&G nor any of
21 its subsidiaries, over which the Commission has
22 jurisdiction, shall enter into any contract for the
23 purchase of gas firm-transportation capacity – that
24 entails transportation using capacity on any
25 interstate natural gas pipeline where such capacity
26 does not already have a certificate from FERC,
27 unless the company proves in a public proceeding
28 before the Commission by a preponderance of the
29 evidence that the company has identified and
30 determined the date and amount of new fuel delivery
31 resource it needs, objectively studied all
32 available alternative fuel delivery source options,

1 including options other than such contracts to meet
2 the identified and determined need, and determined
3 that such contracts were the lowest-cost available
4 option, taking into consideration fixed and
5 variable costs and reasonable projection of
6 utilization.

7 **COMMISSIONER ELAM:** So you're concerned about
8 the least-cost element of that?

9 **COMMISSIONER ERVIN:** Yes, sir.

10 **COMMISSIONER ELAM:** I think we dealt with
11 that. There was a request about –

12 **COMMISSIONER ERVIN:** It doesn't require a
13 hearing, though. The language that we adopted
14 doesn't require a showing or finding by the
15 Commission.

16 **COMMISSIONER ELAM:** Well –

17 **COMMISSIONER WHITFIELD:** Mr. Chairman?

18 **COMMISSIONER ERVIN:** It's more of a
19 suggestion.

20 **COMMISSIONER WHITFIELD:** Mr. Chairman.

21 **CHAIRMAN RANDALL:** Yes, sir.

22 **COMMISSIONER WHITFIELD:** If I may, I don't
23 know whether Commissioner Elam is going to accept
24 this amendment, or not, but I would point out that
25 this was vetted very thoroughly during the hearing,
26 and that wholesale gas sales are a FERC
27 jurisdiction, not jurisdiction of this State
28 Commission, and that there are two settlements –
29 one, a Transco settlement, and then there's another
30 settlement between the Joint Applicants and
31 Transco, and, I would also note, the Solar Business
32 Alliance – where a lot of concessions that

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Commissioner Elam referenced earlier to Mr. Whitt were granted. Also, there were concessions granted in a Transco settlement filed just before the hearing began, that addressed these, and the Commission now has further tools that it would not have had, that were only under federal jurisdiction. So as Commissioner Elam mentioned, this is not to take place unless they're a least-cost provider or – or – with Commission approval.

And, also, the witness stated on the stand for the company, Ms. Jackson, that they would not be buying green-field pipe supply over incumbent pipe supply that's already existing, because of the economics of it, and that as part of the settlement they will have to go out for an RFP.

So, Commissioner Elam, I would leave you with those thoughts.

CHAIRMAN RANDALL: Commissioner Elam.

COMMISSIONER ELAM: I think the motion – my motion dealt with this, the –

COMMISSIONER WHITFIELD: Yes.

COMMISSIONER ELAM: – affiliate transactions, and we talked about the ORS seeking a requirement for competitive sourcing. And what we did was remove the phrase “least cost” from that, because we said that, while least cost is our goal, we don't want to set that as an unmovable block to some other reason the company might have to enter into some arrangement that is not the absolute least cost.

COMMISSIONER WHITFIELD: And that's why it says “or Commission approval.”

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COMMISSIONER ELAM: And what we're talking about here is that, if they go out, if Dominion goes out and tries to source gas supply, if it's not the least cost, they are going to bear the burden of proof to show there was a legitimate reason that they did not go with the least cost. And given the way the gas supply market is, and involvement, I think we will hear from vendors who perhaps are looking to enter into agreements with Dominion if they believe Dominion improperly engaged in self-dealing.

So I think, Commissioner Ervin, the motion already deals with that. And I don't disagree with what I think you're saying, but I think I've already dealt with it.

CHAIRMAN RANDALL: Any other Commissioner comments?

[No response]

Okay. All in favor of amendment three?

COMMISSIONER WILLIAMS: Aye.

COMMISSIONER ERVIN: Aye.

CHAIRMAN RANDALL: All opposed, "no"?

COMMISSIONERS_[EXCEPT C. Ervin and C. Williams]: No.

CHAIRMAN RANDALL: Then the amendment is defeated.

Okay. Amendment four. This is the most-favored-nation clause.

COMMISSIONER ERVIN: Yes, sir.

CHAIRMAN RANDALL: You want to – you said you just want to adopt the – that – the most-favored nation clause, so that –

COMMISSIONER ERVIN: From the ORS proposed

1 order.

2 **CHAIRMAN RANDALL:** From the ORS proposal?

3 **COMMISSIONER ERVIN:** Yes, sir.

4 **CHAIRMAN RANDALL:** Okay. Commissioner Elam.

5 **COMMISSIONER ELAM:** In principle, you know, I
6 don't necessarily disagree with the idea, but if
7 we're truly talking about an apples-to-apples
8 comparison, I think that the two states and the
9 operating companies that are located there are
10 different enough, both in the composition of the
11 utilities and the regulatory structure – how the
12 state looks at things – are different enough to
13 where just a hard and fast apples-to-apples
14 comparison as far as most favored nation – I mean,
15 we deal with this in a lot of just even contracts
16 that utilities enter into with customers, as far as
17 if somebody else got good deal, they want it too.
18 If there is something particular that somebody
19 believes is a condition that we should look at, I'm
20 open to looking at it, but a blanket most-favored-
21 nation in this kind of a market, I just don't think
22 that it will be free from problems if we go that
23 route.

24 **COMMISSIONER ERVIN:** The North Carolina Public
25 Service Commission, when they took up the
26 SCE&G/Dominion merger, made it a part of their
27 order, the most-favored-nation clause; the
28 provision is in the merger. Is that your
29 understanding?

30 **COMMISSIONER ELAM:** I – I have not really
31 reviewed the record of that, that I can tell you,
32 if they did, why they did, so – I haven't reviewed

1 that.

2 **CHAIRMAN RANDALL:** Commissioner Howard.

3 **COMMISSIONER HOWARD:** Mr. Chairman.

4 Commissioner, I was under the impression that
5 when North Carolina prepared their order, we still
6 hadn't had hearings, so they didn't know what we
7 were going to do. They were doing that to protect
8 themselves. Our situation, North Carolina has
9 already had their order; we know what's in their
10 order. We have every right to look and add
11 anything they had in their order to our order. So
12 I question the need for a favored-nation.

13 **COMMISSIONER ERVIN:** Well, it would mean – if
14 we pass the most-favored-nation clause, it would
15 mean that our ratepayers and customers in South
16 Carolina would be entitled to the lowest price of
17 the two states; is that right?

18 **COMMISSIONER ELAM:** I thought –

19 **COMMISSIONER ERVIN:** Correct?

20 **COMMISSIONER ELAM:** I don't know that that's
21 what most-favored-nation status conveys. There's
22 just – it's the difference between buying gasoline
23 in South Carolina at the filling station, and
24 driving across the border and ending up in some
25 sort of different tax regime or whatever. I don't
26 think that's what most-favored-nation, in that
27 context, applies to. Subject to correction.

28 **CHAIRMAN RANDALL:** So, you're talking most-
29 favored-nation; they are talking about merger
30 benefits, right? Is that –

31 **MR. MELCHERS:** Yes.

32 **COMMISSIONER ELAM:** Right.

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CHAIRMAN RANDALL: Okay. Any other Commissioners to weigh in on this?

COMMISSIONER WHITFIELD: Mr. Chairman.

CHAIRMAN RANDALL: Yes.

COMMISSIONER WHITFIELD: I would just rise to speak that I share Commissioner Ervin's concerns, but I do think it's addressed in the B-L Plan. And I do think, as Commissioner Howard said, we do – the North Carolina case has already occurred, and I think it's been addressed. But I certainly share his concern. However, I'm not sure an amendment is necessary to Commissioner Elam's motion to meet his concern.

CHAIRMAN RANDALL: Thank you. Any others?

[No response]

And this is number four?

MR. MELCHERS: Yes, sir.

CHAIRMAN RANDALL: Okay. If we're ready for the question, all in favor of amendment number four from Commissioner Ervin, please say "aye"?

COMMISSIONER ERVIN: Aye.

COMMISSIONER WILLIAMS: Aye.

CHAIRMAN RANDALL: All opposed, "no"?

COMMISSIONERS_[EXCEPT C. ERVIN AND C. WILLIAMS]: No.

CHAIRMAN RANDALL: The motion is – the amendment is defeated. Okay.

COMMISSIONER ERVIN: Mr. Chairman, I apologize. I had one more that I wanted to call to your attention, and that is the affiliate-transactions merger condition, which is found in the ORS proposed order, beginning on page 107. And, again, it addresses the need for regulatory oversight when

1 you've got the situation that we're faced with on
2 affiliate transactions.

3 And so, without reading the entire page, I
4 just – I think that we should consider – if you
5 look at page 107, two-thirds of the way down the
6 page it starts with the merger condition. It's
7 regarding affiliate transactions. The Joint
8 Applicants did tell us that they would work
9 collaboratively with the ORS and the Commission,
10 and I appreciate that. But I think what
11 Commissioner Williams said earlier, we want to
12 trust them in their word – and we do – but we also
13 want to verify. And should the merger succeed and
14 be approved by this Commission, I think it would be
15 incumbent upon us to have a mechanism where we can
16 review affiliate transactions, particularly those
17 that could expose South Carolina captive ratepayers
18 to the risk of overpayment.

19 And there's a list of them, if you'll look on
20 page 108. There are six provisions, beginning with
21 "SCE&G shall not be guarantor of any debt of
22 Dominion or any other Dominion affiliate.

23 "SCE&G shall make a filing with the Commission
24 to seek approval of any structural reorganization,
25 and shall not implement any reorganization until
26 the Commission issues an order approving,
27 rejecting, or modifying the plan for
28 reorganization.

29 "Dominion shall not modify its CAM or its
30 affiliate billing practices to charge SCE&G a rate
31 of return on rate base.

32 "Dominion and SCE&G and its affiliates shall

1 abide by standards regarding affiliate transactions
2 as set forth in NARUC's guidelines for allocations
3 and affiliate transactions, unless otherwise
4 directed by an order of the Commission.

5 "And, generally, the price for services,
6 products, and the use of assets provided by
7 regulated entity through its nonregulated
8 affiliates should be at the higher of a fully
9 allocated cost, or prevailing market prices."

10 **COMMISSIONER ELAM:** Commissioner?

11 **COMMISSIONER ERVIN:** Yes, sir.

12 **COMMISSIONER ELAM:** Have you compared this list
13 with the company's list of agreed-to conditions?

14 **COMMISSIONER ERVIN:** If you can point to me
15 that they've agreed to them, then obviously I'll
16 withdraw the motion. But I'm not – I was not aware
17 that they were.

18 **MR. MELCHERS:** [Indicating.]

19 **COMMISSIONER ERVIN:** [Indicating.]

20 [Brief pause]

21 **COMMISSIONER ERVIN:** All right. So our Chief
22 Staff Counsel tells me that, apparently, the Joint
23 Applicants have agreed to all these conditions.
24 And if that's the case, I stand corrected. I
25 withdraw the motion.

26 **MR. MELCHERS:** On the ones you've read.

27 **COMMISSIONER ERVIN:** On the ones that I've
28 read, yeah, so far.

29 **MR. MELCHERS:** Yes.

30 **COMMISSIONER ERVIN:** And I'm pleased that they
31 did agree, because I think it's important for us to
32 have the oversight. I think it will create an

1 environment of transparency and accountability, and
2 so I'm pleased to know that was agreed upon.

3 **CHAIRMAN RANDALL:** Thank you. Okay.

4 Commissioner Ervin, anything else on those?

5 **COMMISSIONER ERVIN:** Give me just one second
6 and let me make sure I've covered everything.

7 **CHAIRMAN RANDALL:** Okay.

8 [Brief pause]

9 **COMMISSIONER ERVIN:** There's a merger condition
10 that is found in the ORS proposed order, page 142,
11 and it concerns the Commission's public-interest
12 inquiry, and which is we're all aware that we are
13 informed by the State Energy Policy of the South
14 Carolina Legislature, enacted legislation,
15 requiring a comprehensive State Energy Plan that
16 maximizes, to the extent practical, environmental
17 quality and energy conservation and energy
18 efficiency, minimizing the cost of energy
19 throughout the State. And that comes from our Code
20 of Laws.

21 I think that ORS is correct that, in light of
22 our Legislature's interest in promoting these
23 worthy goals that are outlined in the State Energy
24 Policy, that we should impose a merger condition on
25 the Joint Applicants, which would be in the public
26 interest – let me find my page number here. I want
27 to ensure that the Commission – I would say the
28 Commission should require that SCE&G conduct an
29 open, transparent, competitive solicitation for any
30 new energy resources that may be needed to meet the
31 company's energy and capacity needs. The language
32 of the SBA settlement largely implements the

1 conditions envisioned by the Commission and is
2 generally consistent with the recommendations of
3 Witness Binz and otherwise supported by competent
4 substantial evidence. The SBA settlement is
5 approved – is that one of our – is that a part of
6 your motion?

7 **COMMISSIONER ELAM:** Yes, it is.

8 **COMMISSIONER ERVIN:** All right. Thank you.
9 Just wanted to make sure. That's everything.

10 **CHAIRMAN RANDALL:** Okay. Thank you.

11 Commissioners, anything else? Anyone else
12 have questions or comments before we take up the
13 original motion?

14 [No response]

15 If not, all in favor please say "aye"?

16 **COMMISSIONERS:** Aye.

17 **CHAIRMAN RANDALL:** All opposed, "no"?

18 [No response]

19 And the motion carries. Thank you.

20 **VOICE:** Shame, shame.

21 **CHAIRMAN RANDALL:** Okay. Just a few months
22 ago. This Commission was given this task of ruling
23 on this case in a very aggressive timeframe,
24 especially given the fact that the last merger case
25 heard by this Commission took about a year and a
26 half. Our Commission Staff and these seven
27 Commissioners rose to the occasion to prepare this
28 Commission to come to a decision that we think is
29 fair to all parties involved, and it's good for the
30 State of South Carolina.

31 It has not been an easy task: Fifteen days of
32 testimony, over 4000 pages of transcripts prepared

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by Ms. Wheat, and over 2900 pages of prefilled testimony and close to 200 exhibits filed by all parties. And the Commissioners and Commission Staff have spent many late nights and weekends poring over all of this information to make sure that we've come to the best conclusion.

We've learned a lot of stuff in these hearings. A lot – we were presented with a lot of information that we heard for the first time from all parties on both sides of this issue. It was information that may have made a difference earlier on, if we had heard it, and everybody had information that we didn't, it seems. And it has been stated several times here – everybody has heard me say many times that this Commission doesn't make the law, but we do follow it. And we have done that since the Base Load Review Act was followed – was passed, and we'll continue to follow that law, as dictated by the General Assembly.

With that being said, I'm glad that I saw that a bill on securitization has been given us, but with our order due on the 21st, it won't be a factor now, but if the bill becomes law, it gives some flexibility for everyone in the future. I noticed the bill only applies to utilities regulated by this Commission, but I'm confident that our lawmakers are aware that there are other types of unregulated utilities, as well.

On another topic. After reviewing Title 8, Chapter 27, of the South Carolina Code, which could also be referred to as the whistleblower law. It appears as if this law applies only to public

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employees. If such a statute were more encompassing to include employees of utilities regulated by this Commission, perhaps some of the evidence that we heard during the hearing in November could've been heard earlier and would've been beneficial to this Commission. My review of Title 58 of the South Carolina Code did not reveal any type of whistleblower law for employees of the utilities regulated by this Commission. And in the regulatory world, as much openness and transparency as possible is critical for decisions to be made that are just and reasonable.

I want to say thanks, like other Commissioners, for our Staff, for this group of Commissioners. As you can tell, we've been through this in very much detail, and we don't all agree on everything, and that's okay. But I know that everybody on this Commission – the one thing I hear from everybody is, "Let's do the right thing and, then, let the criticism come." I'll say, and I've said before and I'll say it again, that I'm proud to be a Commissioner in the State of South Carolina, and honored to work with these Commissioners and with our Staff.

With that, thank you, and we are adjourned.

[WHEREUPON, at 2:41 p.m., the proceedings in the above-entitled matter were adjourned.]



Date: 12/20/18 .

Jo Elizabeth M. Wheat, CVR-CM/M-GNSC
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