

NOTICE OF APPEAL FROM
ADMINISTRATIVE TRIBUNAL

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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MAR 14 2013

S.C. Supreme Court

APPEAL FROM
THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

Docket No. 2012-203-E

South Carolina Energy
Users Committee,

Appellant,

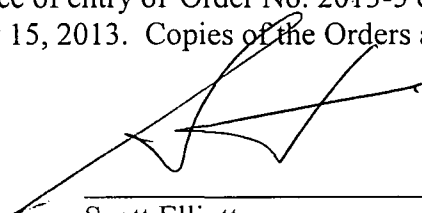
v.

The South Carolina Public
Service Commission; South
Carolina Electric & Gas;
Office of Regulatory Staff,
Sierra Club, and Pamela Greenlaw

Respondent.

The South Carolina Energy Users Committee appeals Order No. 2012-884 dated November 15, 2012, and Order No. 2013-5 dated February 14, 2013 of the South Carolina Public Service Commission. Appellant received written notice of entry of Order No. 2013-5 denying petitions for rehearing and reconsideration on February 15, 2013. Copies of the Orders are attached hereto.

March 14, 2013



Scott Elliott
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Other Counsel of Record
and Parties below:
See attached list.

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Belton T. Zeigler, Esquire Gary Pope, Jr., Esquire Pope Zeigler, LLC P. O. Box 11509 Columbia, SC 29211 803-354-4949 South Carolina Electric & Gas	K. Chad Burgess, Esquire Matthew W. Gissendanner, Esquire SCE&G/SCANA Corporation 220 Operation Way - MC C222 Cayce, SC 29033-3701 803-217-8141 South Carolina Electric & Gas
Robert Guild, Esquire Attorney at Law 314 Pall Mall Street Columbia, SC 29201 803-252-1419 Sierra Club	Pamela Greenlaw 1001 Wotan Road Columbia, SC 29229 803-736-2977

CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that she has served below listed parties with a copy of the pleading(s) indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

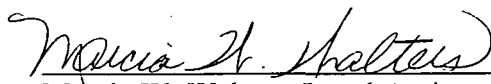
RE: South Carolina Energy Users Committee v. The South Carolina Public Service Commission; South Carolina Electric & Gas; Office of Regulatory Staff
Docket No.: 2012-203-E

PLEADING: NOTICE OF APPEAL

PARTIES SERVED:

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DATE SERVED: March 14, 2013



Marcia W. Walters, Legal Assistant

March 14, 2013

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2012-203-E - ORDER NO. 2013-5

FEBRUARY 14, 2013

IN RE: Petition of South Carolina Electric & Gas	)	ORDER DENYING
Company for Updates and Revisions to	)	PETITIONS
Schedules Related to the Construction of a	)	
Nuclear Base Load Generation Facility at	)	
Jenkinsville, South Carolina	)	

This matter comes before the Public Service Commission of South Carolina ("Commission") on two Petitions for Rehearing and/or Reconsideration of Order No. 2012-884, filed respectively in this docket by the Sierra Club and the South Carolina Energy Users Committee ("SCEUC").

On November 26, 2012, the Sierra Club filed a Petition for Rehearing or Reconsideration with the Commission in this docket. On November 28, 2012, SCEUC similarly filed with the Commission a Petition for Reconsideration. In each of these petitions (the "Petitions"), the petitioners (the "Petitioners") request that the Commission rehear or reconsider certain findings and conclusions as set forth in the Order approving SCE&G's request for updates and revisions to its capital cost and construction schedules, Order No. 2012-884, dated November 15, 2012 (the "Order"). The Petitions are without merit and are hereby denied.

I. Standards for Considering Petitions for Reconsideration and Rehearing

The purpose of a petition for rehearing and/or reconsideration is to allow the Commission the discretion to rehear and/or reexamine the merits of issued orders

pursuant to legal or factual questions raised about those orders by parties in interest, prior to a possible appeal. Pursuant to S.C. Code Ann. § 58-27-2310, “[n]o right of appeal accrues to vacate or set aside, either in whole or in part, an order of the commission . . . unless a petition to the commission for a rehearing is filed and refused” Additionally, a party cannot raise issues in a motion to reconsider that were not raised during the proceeding. See *Kiawah Prop. Owners Group v. Pub. Serv. Comm’n*, 359 S.C. 105, 113, 597 S.E.2d 145, 149 (2004); *Hickman v. Hickman*, 301 S.C. 455, 456, 392 S.E.2d 481, 482 (Ct. App. 1990); *Patterson v. Reid*, 318 S.C. 183, 185, 456 S.E.2d 436, 437 (Ct. App. 1995).

Under the operative Commission regulation, which is 10 S.C. Code Ann. Regs. § 103-825(4):

A Petition for Rehearing or Reconsideration shall set forth clearly and concisely:

- (a) The factual and legal issues forming the basis for the petition;*
- (b) The alleged error or errors in the Commission order;*
- (c) The statutory provision or other authority upon which the petition is based.*

Conclusory statements that amount to general and non-specific allegations of error do not satisfy the requirements of the rule. See *In re South Carolina Pipeline Company*, Docket No. 2003-6-G, Order No. 2003-641, at 6 (“[A] conclusory statement based upon speculation and conjecture is no evidence at all and is legally insufficient to support a [petition for reconsideration]”). While the requirements of specificity in post-trial motions are interpreted with flexibility, at minimum the decision-making body “must

be able to both comprehend the motion and deal with it fairly.” *See Camp v. Camp*, 386 S.C. 571, 575, 689 S.E.2d 634, 636 (2010).

Order No. 2012-884 is a comprehensive order setting forth sufficient findings and conclusions regarding the matters raised in this proceeding and the arguments of the Intervenor. That Order addressed all issues that were properly before the Commission in this docket.

II. The Errors Alleged in the Petition for Rehearing or Reconsideration

As an initial matter, the Sierra Club’s Petition consists solely of a list of errors alleged to have been committed by the Commission in Order No. 2012-884. The allegations of error are generally conclusory in nature and, in most cases, unsupported by any legal analysis and as such are insufficient to support a petition for rehearing. Notwithstanding the foregoing, the Commission will address the general principles contained in the Sierra Club’s petition herein. Further, the Commission will address each individual allegation of error by the Sierra Club and point out where each allegation has already been discussed and explained in Order No. 2012-884, and certain other pertinent orders, save the last general conclusory allegation. (See Appendix A to this Order, which is hereby deemed to be part of this Order as fully as if repeated herein verbatim.) The general discussion below and in Appendix A will also address the specific errors alleged by SCEUC.

In substance, the two Petitions allege two principal errors: First, the Petitions allege that SCE&G was required to have anticipated the cost adjustments that are at issue in this proceeding more than four and one-half years ago when SCE&G made its initial

filing under the Base Load Review Act, S.C. Code Ann. §§ 58-33-210, *et. seq.*, (“Base Load Review Act” or “BLRA”). Second, the Petitions allege that SCE&G was required to present in this docket a thorough evaluation of the prudence of the decision to continue to construct the new nuclear units (“Units”), and that the evidence presented here is not sufficient to meet that burden.

A. The Failure to Anticipate the Current Cost Adjustments in 2008

The Petitions allege that under the terms of the BLRA, SCE&G was required to anticipate the cost adjustments that are at issue in this proceeding when it made its initial BLRA filing in 2008. In Order No. 2012-884 at p. 67-68, the Commission responded to this allegation. For the reasons presented here, this allegation is without merit.

i. Structure and Proceedings Under the BLRA

The original BLRA review of the Units was held in 2008 in Docket No. 2008-196-E. In that docket, SCE&G presented its base cost forecasts for the Units and also provided detailed information about the risk factors it identified related to those forecasts. SCE&G further presented its best estimate of the amount of contingency funds that it anticipated to be sufficient to cover those risks.

In preparing its testimony in the 2008 hearing, the South Carolina Office of Regulatory Staff (“ORS”) conducted a full review and audit of SCE&G’s risk assessment and cost estimates. ORS did so using its own internal experts as well as independent experts with extensive experience in nuclear plant construction and major electric generation projects internationally. ORS’s testimony in that proceeding supported the reasonableness and prudence of the estimates and risk analysis presented by SCE&G.

After a vigorously contested hearing, the Commission determined that the cost estimates presented by SCE&G and supported by ORS were reasonable and prudent. The Commission approved those estimates in Order No. 2009-104(A). There was no suggestion in Docket No. 2008-196-E that the cost estimates presented there were anything but fair, complete, and thorough cost estimates based on the best information available to the utility at the time. Likewise, there is no credible evidence in this docket indicating otherwise.

Order No. 2009-104(A) was then appealed to the South Carolina Supreme Court on the theory that only costs that could be known with reasonable certainty and precision and that could be quantified to specific budgetary items could be included in approved BLRA estimates. The Court agreed and removed from the approved estimates for this project the contingency costs that SCE&G anticipated as likely to be incurred, but which were difficult to identify with certainty at that time.

In deciding to remove these contingency costs, the Court acknowledged that additional costs would likely be identified during the course of this and other similar projects. The Court found that such costs could properly be included in the approved estimates after the costs had been identified with specificity and were subject to Commission review provided for under S.C. Code Ann. § 58-33-270(E). *See South Carolina Energy Users Comm. v. South Carolina Pub. Serv. Comm'n*, 388 S.C. 486, 496, 697 S.E.2d 587, 592 (2010). Therefore, the Court has adopted an interpretation of the BLRA that limits the costs that can be included in the BLRA cost forecasts to those costs that can be identified with reasonable certainty and specificity at the time an application

is filed. But the Court has balanced this ruling by affirming the flexibility that the BLRA allows the utility for updating cost forecasts later in the project as risks become better known and as costs become better quantified. Such a balance is required for the BLRA to function in a reasonable and effective way.

Petitioners, on the other hand, would have the Commission rule that utilities are imprudent for not including in their BLRA forecasts costs that were uncertain, hypothetical and unquantifiable at the time those forecasts were made. This position is inconsistent with the judicial interpretation of the BLRA that is reflected in *South Carolina Energy Users Comm. v. South Carolina Pub. Serv. Comm'n*, *supra*.

Under Petitioners' approach, the Commission is invited to rule, among other things, that SCE&G should have included in its 2008 cost forecasts the following:

- i. the effects on contractors' labor costs of the 2010 federal Health Care and Education Reconciliation Act (Change Order 12),
- ii. the impact on nuclear staffing and emergency planning requirements of the 2011 Fukushima event (Emergency Planning/Health Physics),
- iii. the impact on equipment and software costs of the recent emergence of cyber-security threats to the electric system (Change Order 14),
- iv. the possibility that, in the period 2008-2012, the Nuclear Regulatory Commission (NRC) and the

- industry might increase standards for the licensing and training of nuclear operators and craft workers (Operator/Training Margin, Timing Variance to Support Craft),
- v. the possibility that the economic recession that began in late 2008 would result in other utilities not proceeding with new units and so not sharing common engineering costs for AP1000 projects (APOG/Plant Programs/Procedures),
 - vi. the costs and time required for complying with NRC aircraft impact standards for nuclear reactors that were not issued until 2009 (Change Order 16),
 - vii. the fact that, in 2011-2012, Westinghouse Electric Company, LLC and the Shaw Group decided that stronger steel was required for certain modules used in the Units (Change Order 16), and
 - viii. the fact that, after excavation conducted during 2009-2011, rock conditions at the site might be found to be different from what pre-excavation drilling showed (Change Order 16).

The Petitioners' approach would require the Commission to engage in a level of speculation that is incompatible with the purposes and intent of the BLRA. Furthermore,

given the speculative nature of the analysis that would be required, Petitioners' interpretation of the BLRA would make the statute very difficult for this Commission to apply in practice.

Further, the Petitioners' interpretation of the BLRA which necessitates giving effect to one section of the law wherein the capital costs are first determined, while ignoring another section of the law for revisions to the capital costs, violates the rule of statutory construction set out by the Court of Appeals. That Court has held that, in construing statutory language, the statute must be read as a whole, and sections which are part of the same general statutory law must be construed together and each one given effect, if it can be done by any reasonable statutory construction. *Tillotson v. Keith Smith Builders*, 357 S.C. 554, 593 S.E. 2d 621 (Ct. App. 2004); *Corbett v. The City of Myrtle Beach*, 336 S.C. 601, 521 S.E. 2d 276 (Ct. App. 1999). In this case, the Petitioners give credence to the establishment portion of the Base Load Review Act (Section 58-33-275) while ignoring the revision provision (§ 58-33-270 (E)) and the Supreme Court's holdings in SCEUC's own appeal regarding the availability of requests for revisions to the approved capital costs. See *South Carolina Energy Users Committee v. South Carolina Public Service Commission*, *supra*.

The completeness and prudence of the utility's original BLRA cost forecasts were fully addressed in Order No. 2009-104(A). But putting that order aside, the preponderance of evidence in this docket establishes that each of the cost adjustments presented here were not known or reasonably knowable when prior BLRA petitions were before this Commission. In this docket, SCE&G has presented a detailed accounting of

the changes that make up its request for a \$283 million adjustment in cost schedules and specific testimony about how the requirements that led to this adjustment have arisen. This evidence shows that the requested cost adjustments arise out of changes in laws, changes in regulations, subsequent regulatory decisions, changes or evolutions in designs, emerging information and analysis as to operations, staffing and facilities, changed conditions or other matters that have arisen or become known since the prior proceedings. This evidence establishes that the adjustments at issue in this proceeding were not known or knowable with certainty, clarity or specificity when prior BLRA proceedings were heard. As such, under the reasoning of the Court in *South Carolina Energy Users Comm. v. South Carolina Pub. Serv. Comm'n*, *supra*, these costs could not properly be included in the BLRA forecasts that were approved in prior orders, and the Company was not imprudent for not including them in prior forecasts.

ii. **Standard of Review Under S.C. Code Ann. § 58-33-270(E)**

In its review of the evidence presented in this proceeding, the Commission has relied on the standards set out in S.C. Code Ann. § 58-33-270(E). This is the provision of the BLRA that permits utilities to seek modifications of cost forecasts that the Commission has previously approved under the BLRA.

S.C. Code Ann. § 58-33-270(E) reads as follows:

The commission shall grant the relief requested [i.e., a modification of forecasted cost schedules] if, after hearing, the commission finds . . . that the changes [to those schedules] are not the result of imprudence on the part of the utility.

S.C. Code Ann. § 58-33-270(E)(1).

Petitioners assert that S.C. Code Ann. § 58-33-275(E) contains a different and higher standard than that contained in S.C. Code Ann. § 58-33-270(E). Petitioners assert that it was an error for the Commission to rely on S.C. Code Ann. § 58-33-270(E) and not on S.C. Code Ann. § 58-33-275(E) in deciding this matter. The statutory provision on which the Petitioners rely is found in a different section of the BLRA. The principal focus of that section is to establish the final and binding nature of a BLRA order in the context of requests for revised rates or other rate relief. See S.C. Code Ann. § 58-33-275(A), (B), (C); S.C. Code Ann. § 58-33-280(A), (B), (J)(1); S.C. Code Ann. § 58-27-860. This provision instructs the Commission on how to proceed in cases where a party demonstrates that a deviation from approved cost forecasts was caused by utility imprudence. In such cases, S.C. Code Ann. § 58-33-275(E) provides that the Commission “*may* disallow the additional capital costs that result from the deviation but only to the extent that the failure by the utility to anticipate or avoid the deviation, or to minimize the resulting expense, was imprudent considering the information available at the time that the utility could have acted to avoid the deviation or minimize its effect.” S.C. Code Ann. § 58-33-275(E) (emphasis supplied). Thus, where additional costs due to imprudence are shown, S.C. Code Ann. § 58-33-275(E) provides the Commission with discretion to isolate and remove the imprudent costs presented in a revised rates proceeding or general rate proceeding without otherwise jeopardizing the binding nature of the BLRA Order as to other costs.

Contrary to Petitioners’ suggestion however, S.C. Code Ann. § 58-33-275(E) does not impose a new, higher, or different standard for judging prudence than that contained

in S.C. Code Ann. § 58-33-270(E). S.C. Code Ann. § 58-33-275(E) embodies the established rule that prudence is not to be judged by hindsight but must be judged based on the information available to the utility at the time that meaningful decisions can be made to avoid or minimize costs. Contrary to Petitioners' assertions, S.C. Code Ann. § 58-33-270(E) does not create a special duty to identify costs in initial BLRA proceedings that is different from the duty that exists under the standard prudence rule. As indicated above, in Order No. 2009-104(A), the Commission found after a hearing that the cost projections presented in Docket No. 2008-196-E were reasonable and prudent considering the information available to SCE&G at that time. Nothing in S.C. Code Ann. § 58-33-275 indicates that S.C. Code Ann. § 58-33-275(E) is intended to create a different standard of review to override the prudence standard contained in S.C. Code Ann. § 58-33-270(E).

The Commission has reviewed S.C. Code Ann. § 58-33-270(E) and S.C. Code Ann. § 58-33-275(E) in light of the structure of the BLRA and the policies underlying it. The Commission finds that, in Order No. 2012-884, it appropriately applied the standards contained in S.C. Code Ann. § 58-33-270(E) to its evaluation of the evidence in this proceeding.

B. The Prudence of Continuing the Nuclear Project

The Petitions further allege that, in this docket, SCE&G was legally required to present a reassessment of the prudence of continuing to build the two Units as a prerequisite to modifying the approved cost schedules, including a consideration of whether building one nuclear unit instead of two units would have been prudent. In its

evidence in the proceeding, SCE&G presented two analyses prepared by Dr. Joseph Lynch supporting the economic justification of continuing to build the Units as opposed to abandoning them in favor of what was stated as the next-best alternative, which was natural gas fired combined-cycle capacity. The Petitions allege that these two analyses were not sufficient.¹

As stated in Order No. 2012-884, the Commission does not believe that SCE&G was required to present the prudence analysis that the Sierra Club alleges was necessary. As stated in Order No. 2012-884, such an analysis was not required because of (a) the binding nature of the initial BLRA decision under S.C. Code Ann. § 58-33-275(A), and (b) the terms of S.C. Code Ann. § 58-33-275(D) which preclude consideration of changes in fuel prices in reassessing the binding nature of BLRA orders. As to the later point, the recent decline in natural gas prices was the basis for the Sierra Club's claim that a reassessment of the prudence of continuing to build the Units was required. This puts that claim squarely at odds with S.C. Code Ann. § 58-33-275(D), which states that changes in fuel costs will not be considered in conducting any evaluation under the Base Load Review Act.

However, the issue of whether or not an analysis was required is moot because SCE&G prepared the analysis that the Sierra Club requested and presented it in two forms in its rebuttal and supplemental rebuttal testimony. The Petitioners have had the opportunity to review the analyses, examine SCE&G's witnesses concerning them, and

¹ This issue was not raised by SCEUC either at hearing or in its post hearing brief in the form of a proposed Order Denying Petition for Updates and Revisions to Schedules, dated October 26, 2012, and is therefore, deemed to be waived by SCEUC. See p. 16 *infra* for relevant case law.

file surrebuttal testimony and supplemental surrebuttal testimony concerning them. In this context, it would be meaningless to grant rehearing on the question of whether such an analysis was required. The relief requested has already been obtained. The Commission has reviewed the analyses that Dr. Lynch presented with the same care and attention that would have been given if there was an express statutory requirement for SCE&G to present such information. The Commission has determined that Dr. Lynch's analyses amply support the decision to continue constructing the Units. Weighing Dr. Lynch's analyses and testimony against the contrary evidence provided by the Sierra Club's witness Dr. Cooper, the Commission finds Dr. Lynch's analyses and testimony to be credible and convincing. The preponderance of the evidence fully supports the prudence of continuing to build the Units.

The Sierra Club also questions the methodological sufficiency of Dr. Lynch's second analysis. As a factual matter, the Commission finds that both analyses he presented were methodologically sound and sufficient to demonstrate the prudence of continuing to construct the Units. In modeling gas scenarios in his second analysis, Dr. Lynch assumed two combined-cycle natural gas plants would come on line at the same time, as the Units were scheduled to do so in the nuclear scenarios, *i.e.*, in 2017 and 2018. He assumed that these combined-cycle gas units would provide the same generating capacity as the nuclear Units. As a factual matter, the Commission does not find credible the Sierra Club's claims that the analysis would lead to different conclusions if the timing of the construction of the natural gas plants were adjusted. With the addition of either the new natural gas capacity or the nuclear capacity, SCE&G's reserve margin does not

exceed the established range during the planning period. This means that, under either scenario, new generation is needed in the years and amounts specified. Therefore, there is no factual basis to assume that, if a natural gas resource strategy is assumed, the addition of natural gas capacity can be delayed.

The Commission further accepts Dr. Lynch's testimony that it is not possible to create efficiencies in the natural gas resource plan by down-sizing the potential gas units. As Dr. Lynch testified, the blocks of natural gas fired generation Dr. Lynch assumed in his analysis were as small as feasible for combined-cycle natural gas units. [Tr. at 925-926]. Accordingly, whether gas or nuclear capacity is added, the blocks of capacity added and the timing of capacity added will be the same. There is no factual basis to assume that switching to a natural gas resource strategy would allow SCE&G to delay constructing needed generation resources or to construct them in smaller increments.

The Commission also does not find credible the Sierra Club's claim that running additional scenarios to assess the impact of energy conservation or alternative energy sources might lead to different results. As the record amply demonstrates, the generation that SCE&G's system needs is dispatchable base load or intermediate generation. The evidence shows that energy efficiency resources and other alternative energy resources, such as wind and solar, are important and potentially beneficial supplements to base load or intermediate generation, but they are not substitutes for it. The cost limitations and availability limitations of these alternative resources and their insufficiency to replace dispatchable base load and intermediate generation units are amply discussed in the evidence presented in this docket as well as in Docket 2008-196-E.

More importantly, the Commission finds that the decision to proceed with the construction of the Units does not and should not depend solely on the current price forecasts for natural gas supplies. This is a factual finding based on the evidence presented in this docket by Mr. Marsh, Mr. Byrne and Dr. Lynch as to the uncertainties of such forecasts and their changing nature. A similar result is reached based on S.C. Code Ann. § 58-33-275(D). But the Commission reaches the same result on a purely factual basis whether or not that statute is considered.

As to this later point, SCE&G's customers will benefit if SCE&G can construct a generating system that reflects a balanced portfolio of plants, with a balanced mix of fuel sources and environmental risks. The Commission finds that, as a factual matter, adding nuclear generation accomplishes that goal.

The Sierra Club argues that Dr. Lynch's analyses might have reached a different result had he considered alternative prices for nuclear construction. The Commission finds that this argument is without merit. The preponderance of the evidence shows that, even with today's exceptionally low natural gas prices, completing nuclear generation is the most economical choice for SCE&G. The evidence on the record shows that it would require changes in the comparative costs of nuclear and gas generation that are well beyond anything suggested in the record here for that advantage to be reversed. But even if it could be shown that natural gas generation had some cost advantage over nuclear generation due to current gas prices, the risks that those prices would change as well as the risks inherent in SCE&G continuing and deepening its reliance on fossil fuels would have to be carefully considered before any change in the construction plan would be

warranted. The preponderance of the evidence shows that the price risks and environmental risks of expanded reliance on fossil fuel generation resources are material and substantial.

C. Miscellaneous Allegations

In its Petition, at pp. 11-12, SCEUC seeks to raise issues related to the expiration of 250 megawatt capacity sales contract between SCE&G and a North Carolina wholesale supplier. Issues related to this contract were raised and fully addressed in Docket 2012-218-E. As indicated in that docket, the expiration of the contract has been reflected in SCE&G's projections of future capacity needs under its Integrated Resource Plan ("IRP") which is the data Dr. Lynch used in performing his analyses. Accordingly, the expiration of this contract is already accounted for in Dr. Lynch's analyses. In the context of the present docket, until the filing of the SCEUC's Petition, neither SCEUC nor any other party sought to present evidence or argument concerning the expiration of this contract in this proceeding. This matter was not raised prior to the filing of these Petitions, and it is not properly before the Commission at this time. This argument is waived. See *Kiawah Prop. Owners Group v. Pub. Serv. Comm'n*, *supra*; *Hickman v. Hickman*, *supra*; *Patterson v. Reid*, *supra*, (holding that a party cannot raise issues in a motion to reconsider that were not raised during the proceeding).

The Petitioners alleged that SCE&G was imprudent in filing the original BLRA proceeding before the final round of amendments to the AP1000 design control documents ("DCD") were reviewed and approved. This issue was extensively litigated in Docket No. 2008-196-E. As indicated in that docket, the NRC had granted final approval

for the design of the AP1000 reactor well before 2008. That approval included the DCD revisions up to and including DCD Revision 15. In 2008, additional amendments to the DCD were expected to improve the reactor's resistance to aircraft impacts but cost, timing, and other effects of those revisions could not be known until the NRC issued its final aircraft impact rule and design work to meet those requirements was completed.

In its testimony at the 2008 hearing, the Company provided evidence that it was neither feasible nor economical to wait for those additional DCD revisions to be finalized before proceeding with its BLRA application. Failure to proceed at that time would have involved the loss of favorable pricing terms and other terms in the Engineering, Procurement, and Construction (EPC) Contract, the loss of special federal production tax credits for new nuclear construction, the inability to proceed with the plan for financing construction of the Units, and the necessity from a timing standpoint to abandon the nuclear construction plan and meet the Company's base load generation needs with combined-cycle units. At the time of the initial BLRA proceeding, combined-cycle gas units were the only alternative base load or intermediate load resource that could be constructed rapidly enough to meet system needs.

The Company's testimony concerning the need to file the BLRA petition in 2008 was credible. In this proceeding, it is not appropriate for the Commission to reopen its earlier approval of that decision. Furthermore, no credible evidence has been presented in this docket to indicate, in light of the factors listed above, that it was imprudent to proceed with the initial BLRA filing at the time that the Company did.

SCEUC raises two further issues with our original Order in this case. SCE&G

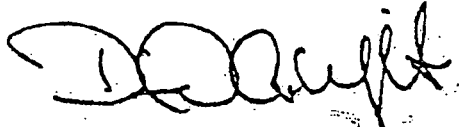
used the macro-corridor approach in quantifying the environmental impacts of the transmission aspects of this project. SCEUC asserts that this contributed to the delay in issuing the Combined Operating License (COL) for the Units. SCEUC further asserts that SCE&G's eventual decision to minimize environmental impacts by using existing rights of way for constructing the lines in question is the cause of some part of the increase in transmission costs at issue in this proceeding. These two points constitute conclusory assertions made by SCEUC without evidentiary support. Neither of these points is supported by the evidence of record in this proceeding. The SCEUC has not pointed to any evidence of record supporting these assertions in its Petition. The Commission finds them to be without merit.

III. CONCLUSION

For the foregoing reasons, and the reasons discussed in the Appendix below, this Commission denies the relief sought by the Sierra Club and the South Carolina Energy Users Committee in their Petitions and such Petitions are denied in their entirety. (See Appendix A below for a discussion of the specific allegations of error propounded by the Sierra Club and the location of already published findings regarding the majority of those allegations.)

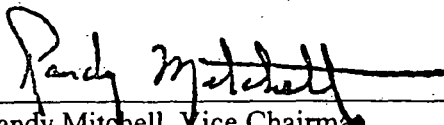
This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

A handwritten signature in black ink, appearing to read "David A. Wright", written over a horizontal line.

David A. Wright, Chairman

ATTEST:

A handwritten signature in black ink, appearing to read "Randy Mitchell", written over a horizontal line.

Randy Mitchell, Vice Chairman
(SEAL)

Appendix A

Specific Allegations of Error of the Sierra Club and Locations of Already Published Findings on Those Allegations in Order No. 2012-884 and other Orders

1. The Commission erred in overlooking and misapprehending the nature and scope of the authority granted it by statute to modify its initial Base Load Review Order, Order No. 2009-104 (A), applicable to this project.

This allegation is conclusory and fails to state how the Commission overlooked and misapprehended the nature and scope of its authority. However, the nature and scope of the Commission's authority in this case is properly described at Order 2012-884, page 13.

2. The Commission erred in failing to properly apply the provisions of SC Code Ann. § 58-33-275 to SCE&G's Petition to include additional capital costs estimates in its Base Load Review Order.

This allegation is conclusory, since it fails to state how the Commission failed to properly apply the law to SCE&G's Petition. The Commission discusses the concept, however, throughout the Order.

3. The Commission erred in failing to conclude here, where it is proven by a preponderance of evidence that there has been a material and adverse deviation from the approved schedules, estimates and projections set forth in the Base Load Review Order, and that it must disallow the additional capital costs that result from the deviation to the extent that the failure by the Utility to anticipate or avoid the deviation or to minimize the resulting expense was imprudent. S.C. Code Ann. § 58-33-275(E).

This allegation goes to the Commission's basic interpretation of the Base Load Review Act, and where and when various sections of it are applicable. In this case, the Commission was presented with a list of new capital costs with an explanation that the costs occurred after the date of the original Base Load Order. Accordingly, this Commission held in Order No. 2012-884 that the revision portion of the Base Load Review Act, section 58-22-275(E) applied. See all of Order No. 2012-884, and, particularly, the explanation given on page 72 of that Order. Further, this principle is thoroughly discussed in the body of the present Order.

4. The Commission erred in failing to conclude that SCE&G could, or should have anticipated or avoided the additional capital costs in question at the time of its initial Base Load Review Act (BLRA) application.

This allegation of error concerns one of the major themes in the case. On pages 33-68 of Order No. 2012-884, the Commission discusses the additional proposed capital costs and why they should be accepted. See also the extensive discussion throughout the present Order.

5. The Commission erred in failing to conclude that the evidence in the record compels a finding that in its rush to construct the nuclear plants, SCE&G sought and obtained its Base Load Review Order based on an incomplete unapproved design for the Westinghouse AP 1000 model nuclear plant, while failing to anticipate and include adequate safeguards to avoid excessive additional capital costs.

This issue was discussed extensively on pp. 63-64 of Order No. 2009-104(A). The matter is also further elucidated on pp. 34-36 of Order No. 2012-884, and pp. 16-17 of the present Order.

6. The Commission erred in finding and concluding that the additional capital costs associated with Change Order 16 are reasonable and prudent and comport with the terms of the BLRA; where such costs were anticipated, or should have been anticipated by SCE&G in its initial Base Load Review Act application, and are, therefore, imprudent under the BLRA. SCE&G assumed the risk of the additional costs associated with Change Order 16 which are not recoverable under the BLRA. §§ 58-33-250 (1), 58-33-275 (E).²

This allegation is conclusory. This issue was discussed extensively on pp. 33-42 of Order No. 2012-884. There is also a general discussion in this Order at pp. 6-9 about the fact that these costs could not have been anticipated at the time of Order No. 2009-104(A). There is no evidence that SCE&G should have assumed the risk for the additional costs at that time.

7. The Commission erred in finding and concluding that the additional \$131.6 million in owner's costs requested in this docket are reasonable and prudent and comport with the terms of the BLRA; and in failing to find and conclude that SCE&G should have anticipated or avoided the additional \$131.6 million in owner's costs it seeks recovery of in this Docket.³

This allegation is conclusory. This issue was discussed extensively on pp. 42-58 of Order No. 2012-884. Further, there is also a general discussion in the present Order at pp. 6-9 about the fact that these costs could not have been anticipated or avoided earlier.

8. The Commission erred in finding and concluding the additional capital costs associated with transmission costs requested in this docket are reasonable and prudent and comport with the terms of the BLRA. The additional transmission costs could and

² See also SCEUC Petition, p. 8, Paragraph 4 a. Although the SCEUC allegation is not conclusory, it is erroneous as per the discussion herein. Further, SCEUC appears to allege for the first time that SCE&G failed to demonstrate that the settlement agreement among it, Westinghouse, and Santee Cooper was prudent and reasonable. In any event, this allegation is without merit, as explained in Order No. 2012-884 at pp. 38-39.

³ See also SCEUC Petition, p. 9, Paragraph 4 b. Although the SCEUC allegation is not conclusory, it is erroneous as per the discussion herein.

should have been anticipated or avoided at the time of the Company's initial BLRA Application.⁴

This allegation is conclusory. The issue was discussed extensively on pp. 58-63 of Order No. 2012-884 and at pp. 6-9 of the present Order.

9. The Commission erred in finding and concluding that the additional costs sought for Cyber Security, Change Order 12 and Change Order 15 in this docket are reasonable and prudent and comport with the terms of the BLRA. The additional costs sought for Cyber Security, Change Order 12 and Change Order 15 could and should have been anticipated or avoided at the time of the Company's initial BLRA Application.⁵

This allegation is conclusory. The issue was discussed extensively on pp. 63-68 of Order No. 2012-884. See also pp. 6-9 of the present Order.

10. The Commission erred in failing to conclude that the BLRA requires consideration of the prudence of continuing to incur capital costs for a nuclear project where the evidence of material changed conditions compels the conclusion that incurring additional capital costs for constructing the project is now imprudent and where such costs can be avoided by abandoning the nuclear project in favor of a less costly alternative energy resource plan.

This allegation is conclusory and merely expresses a contrary viewpoint to the Commission's, which was based on the evidence before it. The Commission discussed the issue extensively on pp. 13-15 and on pp. 32-33 of Order No. 2012-884.

10. The Commission erred in failing to conclude that the evidence in the record of material changed conditions regarding the costs of this project and feasible alternatives compels a finding that continuing to incur capital costs for the nuclear project is now imprudent where such costs can be avoided by abandoning the nuclear project in favor of a less costly alternative energy resource plan.⁶

This allegation is conclusory and merely expresses a contrary viewpoint to the Commission's, which was based on the evidence before it. The Commission discussed the issue extensively on pp. 13-15 and 32-33 of Order No. 2012-884.

⁴ See also SCEUC Petition, p. 10, Paragraph 4 c. Although the SCEUC allegation is not conclusory, it is erroneous, as per the discussion herein.

⁵ See also SCEUC Petition, p. 10, Paragraph 4 d. Although the SCEUC allegation is not conclusory, it is erroneous, as per the discussion herein.

⁶ The Petition for Rehearing or Reconsideration filed by the Sierra Club had two allegations of error labeled "10." For consistency, we have replicated this numbering scheme here.

11. The Commission erred in interpreting the BLRA to preclude the consideration of “changes in fuel costs” in considering the prudence of abandoning construction of the nuclear project in favor of a less costly alternative energy resource plan.

This allegation is directly contrary to S.C. Code Ann. § 58-33-275(D) (Supp. 2012) and is discussed on page 17 of Order No. 2012-884.

12. The Commission erred in interpreting the BLRA to authorize the “routine” filing of capital cost update proceedings instead of requiring the utility to anticipate and avoid incurring imprudent costs to the detriment of ratepayers.

S.C. Code Ann. § 58-33-270(E) (Supp. 2012) states that “As circumstances warrant, the utility may petition the commission....for an order modifying any of the schedules, estimates....that form part of any base load review order issued under this section. ..(emphasis added).” Therefore, the statute allows a company to file at any time that circumstances may warrant it, and the statute goes on to state that the Commission shall grant the relief as requested, as long as the utility can show that the changes “are not the result of imprudence on the part of the utility....” The utility is consistently under a duty to show that expenditures on a facility are prudent. The Commission found that the evidence presented by SCE&G in this case “amply establishes the prudence of continued investment in the project under construction.” See Order No. 2012-884 at 32 for further discussion.

13. The Commission erred in interpreting the BLRA to preclude protecting ratepayers from imprudent capital costs of continued plant construction while authorizing the utility to recover even the costs of an abandoned nuclear plant project.

The Petitioner joins two concepts in this allegation that are not logically connected. However, we will attempt to discuss. First, the BLRA does not preclude protection of the ratepayers if a utility imprudently incurs costs. If this occurs, the Commission does not have to grant the relief requested on a petition for a change in estimates or schedules. See S.C. Code Ann. § 58-33-270(E) (Supp. 2012). See also S.C. Code Ann. § 58-33-275(E) (Supp. 2012) which states that the Commission may disallow additional costs incurred as a result of a material or adverse deviation from a schedule or estimate, if the evidence shows that the failure to minimize the expense was imprudent considering the information available at the time that the utility could have acted to avoid the deviation or minimize the expense. S.C. Code Ann. § 58-33-280(K) (Supp. 2012) governs the costs of abandoned plants. When a plant is abandoned after a base load order has been issued approving recovery, the capital costs and AFUDC (Allowance for Funds Used During Construction) related to the plant shall nonetheless be recoverable, provided that the utility can prove by a preponderance of the evidence that the decision to abandon construction of the plant was prudent. Therefore, under the BLRA, prudent costs are recoverable, even with a plant abandonment, while imprudent costs are not. The BLRA

guards ratepayers from an attempt by utilities to recover imprudent costs. The Commission has always been governed by this principle in BLRA cases, and continued to be so governed in this case. See discussion in Order No. 2012-884 at 68.

14. The Commission erred in concluding that the construction of the nuclear Units should continue and that the additional capital costs and schedule changes are not the result of imprudence on the part of SCE&G.

This allegation is simply the opposite of the conclusion that the Commission ultimately reached, after weighing all the evidence in the case. The Petitioner does not furnish any evidence or reasoning for this allegation of error. The Commission's reasoning is explained thoroughly in Order No. 2012-884, especially at page 32 and page 69.

15. The Commission erred in rejecting the evidence presented by the Sierra Club that the nuclear project was no longer prudent in light of available alternatives and finding that the evidence presented by SCE&G amply establishes the prudence of continued investment in the nuclear project.

This allegation simply presents a repetitive conclusory statement, with no supporting evidence stated. Again, the Commission explained thoroughly why it rejected the evidence presented by the Sierra Club in Order No. 2012-884, especially at page 14 and page 32.

16. The commission⁷ erred in finding that the evidence presented in this docket demonstrates that additional nuclear generation will bring considerable benefits of fuel diversity and the flexibility to respond to future environmental regulations to SCE&G's generation portfolio across a broad range of possible scenarios for fuel costs and environmental regulations.

Again, the allegation is conclusory, and without supporting evidence. Further, it ignores this Commission's full explanation for its finding in this area, found in Order No. 2012-884 at 26 and 33.

17. The commission erred in finding that the Company made an affirmative and sufficient demonstration of the prudence of its nuclear construction program.

As stated in Order No. 2012-884, the Sierra Club appears to argue that, as a condition of approval of the updated capital cost schedules at issue, the issue of whether nuclear generating resources remain the appropriate choice for SCE&G should be reopened.

⁷ The Petition for Rehearing or Reconsideration filed by the Sierra Club made reference to both the "commission" and the "Commission" in its allegations of error. For consistency, we have replicated this style here.

Order at 15. S.C. Code Ann. § 58-33-275(B) (Supp. 2012) states that the original determination (here made in Order No. 2009-104(A)) may not be challenged or reopened in any subsequent proceeding. SCE&G takes the position, and correctly so, that the issue before the Commission in this proceeding was changes to costs and schedules under S.C. Code Ann. § 58-33-270(E) (Supp. 2012). However, even so, this Commission examined the evidence in the present case and affirmed its prior position taken in Order No. 2009-104(A), that the Company made an affirmative and sufficient demonstration of the prudence of its nuclear construction program, as well as the prudence of the changes to costs and schedules proposed by the Company. See Order No. 2012-884 at 18.

- 18. The Commission erred in concluding that the evidence in the record demonstrates that \$278.05 million in newly identified and itemized costs are the result of the normal evolution and refinement of construction plans and budgets for the Units and are not the result of imprudence on the part of SCE&G.**

In effect, the entirety of Order No. 2012-884 addresses this allegation, wherein the Commission weighed the evidence before it, and reached the conclusion summarized in Order No. 2012-884, beginning at 68. Again, this is a conclusory allegation, with no evidence cited to support it.

- 18. The Commission erred in concluding that these additional costs are reasonable, necessary and prudent costs that SCE&G is incurring as owner of the project to ensure that the project is constructed prudently, efficiently and economically, and to ensure that the Units can be operated and maintained safely and efficiently when they are completed.⁸**

Again, the entirety of Order No. 2012-884 addresses this allegation, leading up to the conclusion beginning at 68. No evidence is cited to support this conclusory allegation.

- 19. The Commission erred in concluding that the evidence in the record shows that the delay in the substantial completion of Unit 2 and the acceleration of the completion of Unit 3 supports updating the construction milestones for the Units and is not the result of any imprudence on the part of SCE&G.**

This conclusory allegation is discussed specifically in Order No. 2012-884 at 73, paragraphs 7 and 8. Clearly, the delay in the substantial completion of Unit 2 was principally caused by a delay in the Nuclear Regulatory Commission's issuance of the Combined Operating License ("COL") for the V.C. Summer Units. Further discussion is found on page 68 of that Order. The evidence showed that, once construction of Unit 2 was delayed, the construction milestones could be modified and construction could be accelerated for Unit 3. Order at 69.

⁸ The Petition for Rehearing or Reconsideration filed by the Sierra Club had two allegations of error labeled "18." For consistency, we have replicated this numbering scheme here.

20. The Commission erred, based on the evidence presented by Sierra Club and its expert, Dr. Mark Cooper, in failing to require SCE&G to undertake a thorough evaluation of the prudence of abandoning the nuclear project in favor of a less costly alternative energy resource plan.

A thorough analysis and evaluation of this conclusory allegation is found in Order No. 2012-884 at 18-33. This is one of the major issues in the case, and extensive evidence is cited to support the Commission's conclusion in that Order.

21. The Commission erred in its Order approving the Petition by SCE&G where said Order is arbitrary, capricious, an abuse of discretion, clearly erroneous, unsupported by substantial evidence, in violation of constitutional or statutory provisions, made upon unlawful procedure or affected by other error of law.

This conclusory allegation fails to state with specificity what the Commission has allegedly done to violate the specific points listed, which are actually found in the Administrative Procedures Act at S.C. Code Ann. § 1-23-380 (5) (Supp. 2012). In point of fact, even if the Sierra Club had stated its allegations with more specificity, the points listed are only applicable to judicial review upon exhaustion of administrative remedies (See S.C. Code Ann. § 1-23-380 (Supp. 2012)) and are not specifically applicable for petitions for rehearing before the Commission, such as those presently under review herein. (See S.C. Code Ann. § 58-27-2150 (1976)). There is no reference to these points in Order No. 2012-884.

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2012-203-E - ORDER NO. 2012-884

NOVEMBER 15, 2012

IN RE: Petition of South Carolina Electric & Gas Company for Updates and Revisions to Schedules Related to the Construction of a Nuclear Base Load Generation Facility at Jenkinsville, South Carolina	)	TABLE OF CONTENTS
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BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2012-203-E - ORDER NO. 2012-884

NOVEMBER 15, 2012

IN RE: Petition of South Carolina Electric & Gas	)	ORDER APPROVING
Company for Updates and Revisions to	)	SCE&G'S REQUEST FOR
Schedules Related to the Construction of a	)	MODIFICATION OF
Nuclear Base Load Generation Facility at	)	SCHEDULES
Jenkinsville, South Carolina	)	

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (the "Commission") on the petition of South Carolina Electric & Gas Company ("SCE&G" or the "Company") for an order approving an updated capital cost schedule and updated construction schedule for the construction of two 1,117 net megawatt ("MW") nuclear power units (the "Units") to be located at the V.C. Summer Nuclear Station near Jenkinsville, South Carolina. SCE&G filed the petition in this docket (the "Petition") on May 15, 2012, pursuant to S.C. Code Ann. § 58-33-270(E) (Supp. 2011). Under that provision of the Base Load Review Act (the "BLRA"), a utility "may petition the commission . . . for an order modifying any of the schedules, estimates, findings, class allocation factors, rate designs, or conditions that form part of any base load review order." S.C. Code Ann. § 58-33-270(E). Further, "[t]he commission shall grant the relief requested if, after a hearing, the commission finds . . . that the evidence of record justifies a finding that the changes are not the result of imprudence on the part of the utility." *Id.*

The Petition was preceded by a similar filing, dated February 29, 2012, in Docket No. 2012-90-E. The February 29, 2012, filing predated (i) the issuance of the Combined Operating License (the “COL”) for the Units by the United States Nuclear Regulatory Commission (the “NRC”), (ii) the rescheduling of the substantial completion dates for the Units based on the COL issuance date, and (iii) the resolution of certain claims between SCE&G and the principal contractors for the Units, all of which are discussed in more detail below. By letter dated May 8, 2012, SCE&G withdrew the February 29, 2012, petition in Docket No. 2012-90-E. This allowed the Commission to establish a new hearing and pre-filing dates to allow the parties a full opportunity to review and conduct discovery on this new information. Accordingly, the May 15, 2012, Petition was filed in place of the February 29, 2012, petition.

A. Prior Base Load Review Act (“BLRA”) Orders

In Order No. 2009-104(A), dated March 2, 2009, the Commission approved an initial capital cost schedule and construction schedule for the Units. As approved in that order, the capital cost for the Units was \$4.5 billion in 2007 dollars. With forecasted escalation, this resulted in an estimated cost for the Units at completion of \$6.3 billion in future dollars. The construction schedule approved in Order No. 2009-104(A) anticipated that Unit 2 would be completed by April 1, 2016, and the project as a whole would be completed by January 1, 2019. The South Carolina Energy Users Committee

("SCEUC") appealed Commission Order No. 2009-104(A) to the South Carolina Supreme Court.¹

In April 2009, SCE&G received its initial site-specific, integrated construction schedule from its principal contractors for the Units, Westinghouse Electric Company, LLC and the Shaw Group ("Westinghouse/Shaw"). At that time, SCE&G filed a proceeding under S.C. Code Ann. § 58-33-270(E) (an "update proceeding") for approval of the updated construction schedule for the project and an updated capital cost schedule which reflected the new schedule of cash flows associated with the updated construction schedule. The updated schedules did not alter the total estimated capital cost for the Units of \$4.5 billion in 2007 dollars,² nor did they change the estimated completion dates for the Units. In Order No. 2010-12 dated January 21, 2010, the Commission approved the updated schedules.

On August 9, 2010, the South Carolina Supreme Court issued its decision in SCEUC's appeal of Order No. 2009-104(A), *South Carolina Energy Users Comm. v. South Carolina Pub. Serv. Comm'n*, 388 S.C. 486, 697 S.E.2d 587 (2010) (the "Opinion"). In the Opinion, the Court ruled that contingency costs that had not been itemized or designated to specific cost categories were not permitted as a part of approved capital cost schedules under the BLRA. The effect of this decision was to

¹ An appeal from Order No. 2009-104(A) was also taken by Friends of the Earth. *Friends of Earth v. Pub. Serv. Comm'n*, 387 S.C. 360, 692 S.E.2d 910 (2010).

² Unless otherwise noted, all dollar amounts used in this Order reflect the cost associated with SCE&G's 55% share of the ownership of the Units and are expressed in 2007 dollars.

require the removal of \$438.3 million in projected contingency costs from the capital cost schedules approved in Order No. 2009-104(A) and Order No. 2010-12.

In the Opinion, the Supreme Court acknowledged that S.C. Code Ann. § 58-33-270(E) allowed SCE&G to petition the Commission to update the capital cost schedule for the Units as SCE&G identifies and itemizes additional items of cost. The Court noted, “the General Assembly anticipated that construction costs could increase during the life of the project. Under § 58-33-270(E), SCE&G may petition the Commission for an order modifying rate designs.” *South Carolina Energy Users*, 697 S.E.2d at 592–93.

In response to the Opinion, SCE&G filed a petition in November 2010 for approval of an updated capital cost schedule. The Commission approved SCE&G’s updated capital cost schedule in Order No. 2011-345, dated May 16, 2011. In that updated cost schedule, SCE&G—as required by the Opinion—removed its owner’s contingency, i.e., costs that had not been itemized to specific capital cost categories. Where costs could be itemized, the Company requested Commission approval to include those additional cost items in the approved capital cost schedules. Because the amount of the newly itemized costs was less than the amount of the owner’s contingency that was removed from the approved forecasts, the cost schedule approved in Order No. 2011-345 showed a reduction in the total estimated capital cost for the Units from \$4.5 billion to \$4.3 billion. (Tr. at 29.)

B. The Update Petition in This Docket

In the present docket, SCE&G has presented for review and approval additional capital cost and construction schedule updates. The cost updates fall into four categories:

(i) Change Order No. 16 to the Engineering, Procurement and Construction Agreement (the “EPC Contract”) for the Units; (ii) owner’s cost (“Owner’s Cost”); (iii) Transmission cost; and (iv) other change orders to the EPC Contract. (Tr. at 47-48.)

The first category includes costs associated with the February 2012 resolution of four claims made by Westinghouse/Shaw under the EPC Contract. These four claims were resolved as a package to clear the way for SCE&G to issue a full notice to proceed to Westinghouse/Shaw in April 2012. The claims in this category reflect (i) the additional cost of designing, permitting and constructing shield buildings for the Units with increased resistance to aircraft impacts, (ii) the additional costs in rescheduling the construction project as a result of the approximately nine-month delay in issuance of the COL, (iii) the costs associated with changing the design of certain structural modules that will form part of the Units to increase the strength of steel used in them and to improve constructability, and (iv) the costs of responding to unanticipated rock conditions encountered for Unit 2. (Tr. at 47.) SCE&G and Westinghouse/Shaw documented the resolution of those four claims in Change Order No. 16 to the EPC Contract. That change order reflects \$137.5 million of the amount of the requested adjustment in capital cost schedules requested in this proceeding.

In addition, the Petition states that since Order No. 2011-345 was issued, SCE&G has continued to review and revise its forecasts of the Owner’s Cost that will be associated with hiring, training and deploying of staff for the project. That staff will oversee construction and testing of the Units and will also operate the Units when completed. The staff will also provide security both during and after construction. The

costs associated with staffing the project include the cost of buildings, warehouse and other facilities to support both the project staff and the permanent staff as well as required furniture, supplies, janitorial services, building maintenance, and equipment, including information technologies systems. These costs are capital costs of the project, not annual costs, and will be incurred over the life of the project. The increased cost reflected in this Owner's Cost category totals \$131.6 million of the requested update. (Tr. at 47-48.)

In addition, the Petition states that SCE&G has revised its estimates of the Transmission cost associated with the project by \$7.9 million. These revisions are based on additional information as to design of the transmission facilities required to route power from the Units to customers and additional information concerning the nature and cost of the lines, substations, equipment upgrades and rights-of-way that will be required. Finally, the Petition reflects the costs associated with three other change orders to the EPC Contract that were negotiated with Westinghouse/Shaw and totaling approximately \$5.9 million. These three change orders were negotiated prior to Change Order No. 16 and dealt with different scopes of work. (Tr. at 48.) The cyber-security cost of approximately \$5.9 million covers review and implementation of equipment and software to overcome vulnerabilities to cyber attack. Also, changes in healthcare costs of \$135,573 were requested, and revisions to the design of the wastewater discharge piping for gravity drainage at a cost of an additional \$8,250 were also requested. Id.

As shown in Chart A, below, taken together these requests total approximately
\$283 million:

Chart A

REQUESTED UPDATES TO CONSTRUCTION COST SCHEDULES
(\$000)

<u>Item</u>	<u>Cost</u>
Change Order No. 16 (Shield Building, COL Delay, Modules, Rock Condition, etc.)	\$ 137,500
Owner's Cost	\$ 131,625
Transmission Cost	\$ 7,921
Other Change Orders (Cyber Security, Health Care, Wastewater Piping)	\$ 5,905
Total	\$ 282,951

These requested updates in cost raise the cost of the Units by \$18 million, or 0.4%, over the \$4.5 billion forecasted amount approved in the original BLRA order, Order No. 2009-104(A). (Tr. at 261.) However, escalation rates and rates for allowance for funds used during construction ("AFUDC") have been lower than anticipated when originally forecasted in 2008. (Tr. at 30.) As a result, the cost of the Units in future dollars is \$5.8 billion which is \$550 million, or approximately 8%, less than the \$6.3 billion amount forecasted in 2009. (Tr. at 30.)

In the Petition, SCE&G also seeks approval of an updated construction schedule for the Units. This updated schedule delays the completion date of Unit 2 by 11 months

to March 15, 2017, but advances the date for completion of the project as a whole by seven and one-half months to May 15, 2018. (Tr. at 212.)

The original updated capital cost schedule was submitted as Hearing Exhibit No. 6 (CLW-1). A second updated capital cost schedule based on Hearing Exhibit No. 6 (CLW-1), modified according to this Commission's directive in this matter, was submitted by the Company to this Commission. This schedule is attached hereto as **Order Exhibit No. 1**. The updated construction schedule for the project was submitted as Hearing Exhibit No. 1 (SAB-3) and is attached hereto as **Order Exhibit No. 2**.

C. Notice and Interventions

In compliance with S.C. Code Ann. § 58-33-270(E), SCE&G timely provided notice of the Petition in this docket to the South Carolina Office of Regulatory Staff ("ORS"). ORS, pursuant to S.C. Code Ann § 58-4-10 (Supp. 2011), is automatically a party in this docket.

By letter dated May 24, 2012, the Commission's Clerk's Office instructed the Company to publish a Notice of Filing and Hearing in newspapers of general circulation in the area where SCE&G serves retail electric customers (the "Newspaper Notice") by July 3, 2012. The Clerk's Office also instructed SCE&G to provide a copy of the Notice to its retail electric customers by U.S. mail or by electronic mail to customers who have agreed to receive notice by electronic mail (the "Customer Notice"). The Clerk's Office instructed SCE&G to provide proof of newspaper publication by July 18, 2012.

By letter dated May 29, 2012, SCE&G requested an extension of time to July 15, 2012, to provide the Customer Notice. By letter dated May 29, 2012, the Commission

amended its notice requirements for both the Newspaper Notice and the Customer Notice. The revised publication schedule provided for both the Newspaper Notice and the Customer Notice to be accomplished by July 15, 2012, and for Commission receipt of proof of publication and certification of distribution on or before July 24, 2012. On July 13, 2012, the Company timely filed affidavits with the Commission demonstrating that the Newspaper Notice had been duly published in accordance with the Clerk's Office's instructions and certifying that a copy of the Customer Notice had been furnished to each affected customer.

Timely petitions to intervene in this docket were received from Pamela Greenlaw, the Sierra Club, the South Carolina Energy Users Committee ("SCEUC") and Joseph Wojcicki. No other parties sought to intervene in this proceeding.

The petitions of Pamela Greenlaw, the Sierra Club, and SCEUC were not opposed by SCE&G. However, on May 29, 2012, SCE&G filed a Return in Opposition and Objection to the Petition to Intervene ("Return") of Mr. Joseph Wojcicki. On June 4, 2012, Mr. Wojcicki filed a reply to SCE&G's Return. By Order No. 2012-495, dated July 13, 2012, the Commission denied Mr. Wojcicki's petition to intervene. On August 1, 2012, Mr. Wojcicki filed a motion asking the Commission to reconsider the denial of his petition to intervene. By Order No. 2012-622, dated August 15, 2012, the Commission denied Mr. Wojcicki's motion for reconsideration. Mr. Wojcicki did not appeal these orders, but did appear as a public witness to comment on matters at issue in this proceeding.

The Commission convened a public hearing on this matter on October 2-3, 2012, with the Honorable David A. Wright, Chairman, presiding. SCE&G was represented by K. Chad Burgess, Esq., Matthew W. Gissendanner, Esq., and Belton T. Zeigler, Esq. ORS was represented by Courtney Dare Edwards, Esq., Shannon Bowyer Hudson, Esq., and Jeffrey M. Nelson, Esq. The Sierra Club was represented by Robert Guild, Esq., and SCEUC was represented by Scott Elliott, Esq. Pamela Greenlaw proceeded *pro se*.

In support of the Petition, the Company presented the direct testimony of Kevin B. Marsh, Chairman and Chief Executive Officer of SCANA Corporation and SCE&G; Stephen A. Byrne, President for Generation and Transmission of SCE&G; David A. Lavigne, General Manager, Operational Readiness for New Nuclear Deployment; Hubert C. Young, III, Manager of Transmission Planning for SCE&G; and Carlette L. Walker, Vice President for Nuclear Finance Administration.

ORS presented the direct testimony of Allyn H. Powell, Associate Program Manager in the Electric Department of ORS, and Gary C. Jones, P.E., President of Jones Partners, Ltd.

The Sierra Club presented the direct testimony of Dr. Mark Cooper, Director of Energy and Director of Research at the Consumer Federation of America. SCEUC and Ms. Greenlaw presented no witnesses at the hearing.

In response to the testimony of Dr. Cooper, SCE&G presented the rebuttal testimony of Messrs. Marsh and Byrne, and Dr. Joseph M. Lynch, Manager of Resource Planning for SCE&G. The Sierra Club filed surrebuttal testimony of Dr. Cooper in response to SCE&G's rebuttal testimony. In response to Dr. Cooper's surrebuttal

testimony, SCE&G filed a supplemental exhibit to Dr. Lynch's testimony providing the results of an economic study comparing the cost of completing the Units to the cost of pursuing a natural gas resource strategy. The Sierra Club conducted discovery on this comparative economic study prior to the hearing. At the hearing, the Sierra Club presented supplemental rebuttal testimony of Dr. Cooper challenging certain conclusions of Dr. Lynch's study.

D. Bill Issue Raised by Mr. Clements

On October 2, 2012, the Commission held a public night hearing in this proceeding at which 22 members of the public provided comments to the petition of SCE&G. At the public night hearing, Tom Clements, on behalf of the Alliance for Nuclear Accountability, informed the Commission of the billing practice of Georgia Power Company, who is constructing two AP1000 nuclear units in Georgia. As part of his public comments, Mr. Clements provided the Commission with a copy of an electricity bill issued by Georgia Power Company that was included as part of the evidence of record and identified as Hearing Exhibit No. 3. The supplied bill contains a separate line item entitled "Nuclear Construction Cost Recovery." Mr. Clements requests that as part of the ruling in this docket that the Commission issue an order instructing SCE&G to include this same information on SCE&G's electricity bill. For the reasons set forth below, it is not necessary for SCE&G to include this information on its electricity bills.

The information that is required to be included on electricity bills is governed by 26 S.C. Code Ann. Regs. 103-339(2) (Supp. 2011). The form of electricity bills has

received careful consideration by the Commission and the General Assembly. The required information to be included on electricity bills provides a balance between providing customers with information necessary to ensure that each bill is calculated correctly while ensuring that the bill does not become overly complicated or confusing to customers. Each bill must include SCE&G's contact information so that customers who have questions about their bill may raise them with Company representatives. Moreover, issuing an order in this proceeding is not the appropriate manner in which to implement a change to 26 S.C. Code Ann. Regs. 103-339(2). Rather, the appropriate mechanism for such a change would be to initiate a rulemaking proceeding where the Commission receives public comment and the General Assembly has the requisite opportunity to review and approve the regulation.

Mr. Clements' claim that SCE&G's customers are uninformed regarding the cost of the Units is unfounded and not supported in fact. In every proceeding before the Commission regarding the Units, public notice and the opportunity to be heard is provided in the manner required by law and ensures public participation in and awareness of the process. At these public hearings, the public is encouraged to attend and comment. Additionally, for those persons who cannot attend the public hearing, the information presented during the hearing is available to the public for review at the Commission's offices as well as its website <http://dms.psc.sc.gov/>. We find that the current notice and hearing regime in place provides the public with sufficient and adequate notice of the proceedings regarding the Units and that the instant docket is not the appropriate proceeding to consider an alteration to regulations of the Commission. We also find that

26 S.C. Code Ann. Regs. 103-339(2) provides utility customers with sufficient information to be included on their electricity bill, and therefore, decline to initiate a rulemaking proceeding on this matter.

II. STATUTORY STANDARDS AND REQUIRED FINDINGS

S.C. Code Ann. § 58-33-270(E) governs proceedings to update capital cost schedules and construction schedules that have been previously approved under the BLRA. Under this statute, the Commission must grant the relief requested, if after a hearing, the Commission finds that “as to the changes in the schedules, estimates, findings or conditions, that the evidence of record justifies a finding that the changes [in previously approved schedules] are not the result of imprudence on the part of the utility.” S.C. Code Ann. § 58-33-270(E)(1) (Supp. 2011). In addition to S.C. Code Ann. § 58-33-270(E), the Commission is aware that under other provisions of the BLRA, determinations made in the initial BLRA order “may not be challenged or reopened in any subsequent proceeding.” S.C. Code Ann. § 58-33-275(B). In this regard, “[c]hanges in fuel cost will not be considered in conducting any evaluation under this section.” S.C. Code Ann. § 58-33-275(D).

A. The Sierra Club’s Argument

Through the testimony of Dr. Cooper, the Sierra Club argues that the Commission should deny SCE&G’s Petition and find that the additional costs presented by SCE&G for approval in this update proceeding are imprudent. (Tr. at 956.) Specifically, the Sierra Club asserts that because natural gas prices have fallen considerably since 2009, and because energy conservation and alternative generation sources may be becoming

more cost competitive, the Commission should find that it is no longer prudent for SCE&G to continue construction and complete the Units and consequently, that the additional costs are likewise imprudent. (Tr. at 962.) For all practical purposes, the Sierra Club's argument is tantamount to a request that the Commission issue an order instructing SCE&G to terminate the project.³

B. Prior Commission Determinations

Although Dr. Cooper discusses alternative generation and energy efficiency in his testimony, the specific base load generation resource that Dr. Cooper seeks to demonstrate to be preferable to nuclear generation is combined-cycle natural gas generation. (Tr. at 962.) This is not the first time that the Commission has considered the relative merits of a natural gas resource strategy compared to a nuclear resource strategy. In the original BLRA proceeding, Docket No. 2008-196-E, the principal focus of the testimony in support of the Company's application and in opposition to it was the comparison of nuclear and natural gas resource strategies. The studies and other evidence presented in Docket No. 2008-196-E specifically compared the risks and benefits of a nuclear resource strategy to a combined cycle natural gas resource strategy. Those studies considered a number of possible scenarios, including the possibility of lower than anticipated natural gas prices in the future. The testimony presented by Dr.

³ Dr. Cooper did not assert that any fundamental flaw exists or has been discovered in the AP1000 units, in the Jenkinsville site, or in nuclear power generally. To the contrary, the Commission finds that the evidence of record supports the conclusion that nuclear generation continues to be a safe, practical and efficient source of electrical power and that construction of the Units is proceeding in a safe, efficient and satisfactory manner. Most of the major challenges identified in the early stages of the engineering, procurement, construction and permitting for the Units have been overcome. (Tr. at 32.) As to safety and environmental concerns, the design of the Units and the Jenkinsville site have recently passed rigorous reviews by the NRC and other state and federal permitting agencies. (Tr. at 148.)

Cooper in this proceeding is based on the data and analysis presented by SCE&G in Docket No. 2008-196-E. (Tr. at 962-63.) Through sensitivity studies and other approaches, Dr. Cooper has sought to ‘update’ the 2008 studies by including new data related to gas prices and other factors.

In Order No. 2009-104(A), the Commission carefully reviewed the merits of the natural gas resource strategy compared to the nuclear resource strategy. The Commission entered detailed and specific findings supporting SCE&G’s decision to construct the Units rather than choosing to rely primarily on combined cycle natural gas units to meet its projected base load generation needs. In its review of Order No. 2009-104(A), the South Carolina Supreme Court found that “based on the overwhelming amount of evidence in the record, the Commission’s determination that SCE&G considered all forms of viable energy generation, and concluded that nuclear energy was the least costly alternative source, is supported by substantial evidence.” *Friends of Earth v. Pub. Serv. Comm’n*, 387 S.C. 360, 369, 692 S.E.2d 910, 915 (2010).

C. Policies and Procedures and Key Provisions of the BLRA

The Sierra Club’s arguments raise important questions about practice under the BLRA. The Sierra Club argues that the issue of whether the Commission should approve increasing capital forecasts for the Units requires the Commission to determine whether it is prudent to continue the construction of the Units at all. (Tr. at 953.) Therefore, as a condition of approval of the updated capital cost schedules at issue here, the Sierra Club ultimately seeks to reopen the issue of whether nuclear generating resources remain the appropriate choice for SCE&G.

For its part, SCE&G asserts that the arguments and evidence presented by the Sierra Club in this proceeding constitute an attempt to reopen the determinations made in Order No. 2009-104(A) concerning the appropriateness of choosing a nuclear generation resource strategy as compared to a natural gas resource strategy, which on its face appears to be contrary to S.C. Code Ann. § 58-33-275(B). SCE&G takes the position that under S.C. Code Ann. § 58-33-270(E), the operative question before the Commission in an update proceeding is whether “as to the *changes* in the schedules [presented by SCE&G] . . . the evidence of record justifies a finding that the *changes* are not the result of imprudence on the part of the utility.” S.C. Code Ann. § 58-33-270(E) (Supp. 2011) (emphasis supplied). That is, SCE&G contends that the plain language of the statute focuses the Commission’s review on the prudence of the specific changes to the cost and construction schedules that are being proposed in this docket. (Tr. at 76.)

In weighing these arguments, the Commission notes that the BLRA was intended to cure a specific problem under the prior statutory and regulatory structure. Before adoption of the BLRA, a utility’s decision to build a base load generating plant was subject to relitigation if parties brought prudence challenges after the utility had committed to major construction work on the plant. The possibility of prudence challenges while construction was underway increased the risks of these projects as well as the costs and difficulty of financing them. In response, the General Assembly sought to mitigate such uncertainty by providing for a comprehensive, fully litigated and binding prudence review before major construction of a base load generating facility begins. The BLRA order related to the Units, Order No. 2009-104(A), is the result of such a process.

It involved weeks of hearings, over 20 witnesses, a transcript that is more than a thousand pages long and rulings that have been the subject of two appeals to the South Carolina Supreme Court.

S.C. Code Ann. § 58-33-275(A) establishes the final and binding nature of BLRA orders as a matter of law. Furthermore, S.C. Code Ann. § 58-33-275(B) states that the determinations made in such orders “may not be challenged or reopened in any subsequent proceeding.” Finally, S.C. Code Ann. § 58-33-275(D) recognizes the specific danger that would be posed to this regulatory scheme if changes in fuel costs could result in a reassessment of the prudence of base load units during construction. Under S.C. Code Ann. § 58-33-275(D), “[c]hanges in fuel costs will not be considered in conducting any evaluation under this section.” Changes in fuel costs are the principal factual foundation of the Sierra Club’s position in this matter.

The approach to the BLRA that is proposed by the Sierra Club would inject prudence challenges back into the process for building base load generating facilities whenever an update proceeding is required. The cost schedules approved under the BLRA do not include owner’s contingency, and for that reason, update proceedings will now be necessary to review and approve future adjustments in cost forecasts. See *South Carolina Energy Users Comm. v. South Carolina Pub. Serv. Comm’n*, 388 S.C. 486, 697 S.E.2d 587 (2010). Update proceedings are likely to be a routine part of administering BLRA projects going forward (including future projects proposed by other electric utilities), such that under the Sierra Club’s argument, the prudence of the decision to build the plant will be open to repeated relitigation during the construction period if a

utility seeks to preserve the benefits of the BLRA for its project. Reopening the initial prudency determinations each time a utility is required to make an update filing would create an outcome that the BLRA was intended to prevent and would defeat the principal legislative purpose in adopting the statute.

In any event, although not required by the terms of the BLRA, the record in this proceeding has provided the Commission with sufficient evidence on which to examine and evaluate the positions of SCE&G and the Sierra Club on the factual issue of whether continuing with construction of the Units is prudent and whether the additional costs and schedule changes are prudent. Based on the evidence of record before us, the Commission concludes that the construction of the Units should continue and that the additional costs and schedule changes are not the result of imprudence on the part of SCE&G, though the Commission approves only the portion of cyber-security cost that is known and quantifiable (Phase I) while deferring the remainder (Phase II).⁴

III. REVIEW OF THE EVIDENCE AND EVIDENTIARY CONCLUSIONS

The Commission has reviewed the facts and evidence of record and reaches the following conclusions:

A. Prudency of Completing the Units

The factual record concerning the Sierra Club's challenge to the prudency of completing the Units is contained in the direct and surrebuttal testimony, as supplemented at the hearing, of its witness Dr. Cooper, and the responses to it in the

⁴ While the Commission has here addressed the prudency of the continuation of the construction of the Units, based on its ruling herein, if this issue is raised in future cases, the Commission would be willing to entertain appropriate motions *in limine* or other procedural motions regarding this issue.

rebuttal testimony by Mr. Marsh, Mr. Byrne, and Dr. Lynch, and the comparative economic analysis conducted by Dr. Lynch, Exhibit No. 9 (JML-4).

1. Dr. Cooper's Factor Analysis

Dr. Cooper's analysis of the prudence of continuing to construct the Units focused on the comparative cost of natural gas generation and nuclear generation given current natural gas prices. (Tr. at 962.) Dr. Cooper based his study on the data and analysis presented by Dr. Lynch in Docket No. 2008-196-E (the "2008 Studies"). (Tr. at 963; Hr'g Ex. 10 (MNC-4)). He sought to recalculate its results based on changes in one factor, specifically, the recent decline in natural gas prices.

In the 2008 Studies, Dr. Lynch showed that at the baseline natural gas price forecast, the advantage of the nuclear resource strategy over the natural gas resource strategy was \$15 million dollars per year levelized over forty years. (Tr. at 963.) In other words, the nuclear resource strategy was the least costly resource and one scenario quantified that this lower cost resulted in levelized savings to customers of \$15 million per year. See Commission Order No 2009-104(A) and *Friends of Earth v. Pub. Serv. Comm'n*, 387 S.C. 360, 369, 692 S.E.2d 910, 915 (2010). Dr. Lynch also provided a sensitivity analysis, which demonstrated that if natural gas prices were higher than forecasted by 25%, the comparative benefit of the nuclear resource strategy increased over the gas resource strategy from \$15 million to \$53.4 million per year. (*Id.*)

Dr. Cooper determined that in mid-2012, the current Energy Information Administration ("EIA") natural gas cost forecasts were 62% below the base line forecast

used in Dr. Lynch's 2008 Studies. (*Id.*) Based on the relationship between these numbers, he computed that a 62% decline in natural gas price forecasts would cause a shift of approximately \$132 million in the relative economics of the nuclear and natural gas resource strategies as calculated in the 2008 Studies. (*Id.*) Since the nuclear resource strategy started with a \$15 million advantage, Dr. Cooper reduced the \$132 million savings he calculated by that amount. This resulted in a calculation showing a net advantage to the natural gas resource strategy of \$115 million. (*Id.*)

Dr. Cooper then increased his estimated savings from natural gas by assuming that there would be no cost associated with carbon ("CO₂") emissions. Dr. Lynch's 2008 studies had shown that assuming zero CO₂ cost, the natural gas resource strategy had an advantage over the nuclear resource strategy of \$87 million per year. (Tr. at 964.) Dr. Cooper added this amount to his \$115 million calculation to conclude that the levelized cost of the natural gas resource strategy over the nuclear resource strategy was in excess of \$200 million. (*Id.*) He then multiplied this amount by 40 to reflect the forty-year planning horizon for Dr. Lynch's study. Based on this calculation, he determined that the natural gas resource strategy had a cumulative \$8 billion advantage over nuclear.⁵ (*Id.*)

⁵ Dr. Cooper claimed that SCE&G did not factor certain risks into its original cost projections that were approved under the BLRA even though these risks should have been evident at that time. (Tr. at 972.) The risks that he believes SCE&G should have originally factored into its cost projections include difficulties in staffing the Units, supply chain issues, delays in regulatory approval, and the possibility that regulations would change during the construction of the Units. (Tr. at 970-71.) According to Dr. Cooper, SCE&G should have been aware of these risks and factored the cost associated with them into the original cost projections. (Tr. at 972.) He asserts that the failure of SCE&G to consider these risks amounted to its presenting the Commission with a "low ball estimate" of the cost of the Units. Had the Commission been presented with the actual cost of the Units, including the \$450 million that he claims amount to cost overruns, it may have arrived at a different decision regarding their prudence. (Tr. at 972.)

The Company rebutted these claims in the testimony of Mr. Byrne. Mr. Byrne points out that the cost forecasts and the EPC Contract were independently audited by consulting firms retained by ORS. (Tr. at 269.) The experts within those consulting firms had extensive experience with forecasting costs related

In summary and according to Dr. Cooper, the natural gas resource strategy is now the least costly resource.

2. Dr. Lynch's Alternative Factor Analysis

SCE&G's rebuttal testimony challenged Dr. Cooper's conclusions on several points. First, Dr. Lynch prepared an alternative analysis focusing on two factors related to the current cost of completing the Units. (Tr. at 903-04.) One factor was the reduction in the cost of the Units due to lower escalation and AFUDC rates than were anticipated in 2008. Lower escalation and AFUDC costs have reduced the forecasted cost of the Units in future dollars by \$551 million. The other factor Dr. Lynch analyzed was that 25% of the current costs of the Units have already been spent and only 75% is required to be spent to complete them. In comparing the cost of completing the Units versus switching to a natural gas resource strategy, Dr. Lynch pointed out that the analysis must take into account that a substantial part of the cost of building the Units has been spent. (Tr. at 890, 904.)

In his rebuttal testimony, Dr. Lynch quantified the impact of these two factors using a standard tool employed in utility planning analyses, the levelized carrying cost for investment. This represents the annual cost that must be charged to customers for each dollar spent on a utility investment to fund depreciation, taxes, the cost of capital (debt and equity) and insurance related to that investment. In this case, Dr. Lynch computed

to major electric generation projects, including nuclear projects. (*Id.*) Those experts would also have been familiar with the risks inherent in nuclear construction. These independent reviews of the cost forecasts and the EPC Contract found nothing to indicate that SCE&G's cost estimates were inaccurate. The Commission finds Mr. Byrne's testimony credible and does not find that the evidence on the record supports the "low ball" allegation.

the specific carrying cost for investment in the Units taking into account the items mentioned above. He did so on a levelized basis over the 40-year planning horizon. As Dr. Lynch testified, the levelized carrying cost factor for investment in the Units is 16%, *i.e.*, for each dollar invested, SCE&G must collect \$0.16 per year over the planning horizon. (Tr. at 903.) Applying this factor to the \$551 million reduction in the cost of the Units, the annualized savings of the nuclear strategy increases by \$88 million (\$551 million * 0.16%). (Tr. at 904.)

Dr. Lynch also testified that because, as of June 30, 2012, approximately 25% of the currently forecasted cost of the Units has been spent, the cost to complete the Units is reduced by approximately \$1.4 billion. (Tr. at 892.) As a result, for planning purposes, the levelized going-forward cost of pursuing the nuclear strategy has been reduced by the additional amount of \$230 million per year, which is the carrying cost that would be incurred on that \$1.4 billion.⁶ Accordingly, Dr. Lynch testified that these two factors alone reduced the cost of the nuclear strategy by a total of \$318 million on an annualized basis. This amount far exceeds the amounts that Dr. Cooper calculated to be the savings that result either from low natural gas cost forecasts alone or from the low natural gas and zero CO₂ costs scenarios combined. (Tr. at 890-92.)

Dr. Lynch further testified that in planning studies, the appropriate way to reflect levelized savings as a lump sum is through a present value calculation, not by simply multiplying the levelized annual cost by the number of years in the study as Dr. Cooper calculated. (Tr. at 892.) Calculating the net present values of the savings discussed

⁶ \$5,762 million * 0.16 * 0.25, where \$5,762 million is the current cost of the Units, 25% is the amount that has been spent and 16% is the levelized carrying cost of nuclear investment.

above, Dr. Lynch presented a chart, which is produced below, showing the relative impact of the factors identified in the comparative analyses presented in 2008.⁷

Chart B

Dr. Cooper's Adjustments to Natural Gas Strategy Costs (reduced costs, in millions)		SCE&G's Adjustments to Nuclear Strategy Costs (reduced costs, in millions)	
<u>Low Gas Cost Alone</u>			
Levelized Per Year	\$115		
Accumulated	\$4,000		
Present Value	\$1,400		
<u>Low Gas Cost & No CO₂ Cost</u>		<u>Going-Forward Cost</u>	
Levelized Per Year	\$200	Levelized Per Year	\$318
Accumulated	\$8,000	Accumulated	Not Computed
Present Value	\$2,400	Present Value	\$3,900

(Tr. at 910.)

3. Natural Gas Price Volatility

Dr. Lynch also faulted Dr. Cooper's analysis on the basis of its reliance on natural gas price forecasts that are inherently unreliable:

Planners, if they are prudent, do not put much confidence in anyone's projection of natural gas prices. That is why almost all resource planning studies involve scenario planning and sensitivity analysis around the most uncertain drivers of cost. The price of fossil fuels is one of the most volatile and uncertain drivers of energy costs.

⁷ On page 6 of Dr. Cooper's surrebuttal testimony, he alleges that the Company has "double discounted [his] calculation of natural gas savings" without providing sufficient additional detail to validate this claim. (Tr. at 981.) From the Commission's review of the figures presented by the Company, the Commission finds that the calculations provided by SCE&G appear to be correctly computed and do not involve double counting. Based on the information provided by Dr. Cooper, the Commission is constrained to find this argument without factual basis or merit.

(Tr. at 898.) Dr. Lynch provided data from EIA showing that EIA acknowledges that its forecasts are almost always in error, whether too high or too low. In addition, EIA has computed the 95% confidence interval around its forecast of gas prices through 2013. Within that confidence interval, natural gas prices could be as high as \$7.76 per MMBTU on December 31, 2013, or as low as \$2.11, with the expected price being \$3.63. This means that in mid-2012, EIA recognized that by December 2013, there was an equal probability of natural gas prices being 214% higher than the forecasted price as there was of them being 42% lower. (Tr. at 898-99.)

As Mr. Marsh testified, “[i]f there is anything that I have learned in my more than 30 years of experience in this industry, it is that current gas price forecasts—whatever they are—will change. The projections on which Dr. Cooper relies were different four years ago, and in all likelihood will be different four years from now.” (Tr. at 86.)

Dr. Lynch further identified a number of “forces at work in the economy that could cause today’s forecasts of future gas prices to prove inaccurate.” (Tr. at 901.) Those factors include the increasing substitution of natural gas for coal as an electric generation fuel, increased exports of liquefied natural gas in response to a wide disparity between domestic U.S. natural gas prices and international energy prices, and the expansion in the United States of industries that use a high volume of natural gas for fuel and feedstock. (Tr. at 900.)

Natural gas prices are low today because of a new technology known as hydrological fracturing, or fracking. (Tr. at 899.) Over the past two years, fracking has

opened up an abundance of new gas supply that has driven domestic natural gas prices down to levels that are now much lower than comparable prices internationally.

Fracking, however, is under increasing environmental attack by certain special interest groups, including the Sierra Club, that wish to limit its use. (Tr. at 78, 901-02.) In addition, recent Environmental Protection Administration (“EPA”) regulations related to CO₂ emissions have made it economically impossible to build coal plants to meet the demand for electricity. (Tr. at 901.) Dr. Lynch testified that apart from nuclear “there is now only one type of dispatchable base load/intermediate load generation resource that can be built in most of the United States. That is combined-cycle gas generation.” (Tr. at 902.) This development will “create the need for new pipeline capacity to deliver gas in the required volumes, which involves construction and permitting costs and risks, which can lead to higher costs. Of course, if you burn gas, you emit carbon, so another risk of gas generation is the risk that CO₂ costs will be imposed directly on gas as a fuel.” (Tr. at 901.)

Based on the foregoing, Dr. Lynch testified that “there is a great deal of uncertainty in natural gas prices and in their projection. Prudent resource planning decisions cannot be made based on a single scenario of natural gas price projections.” (Tr. at 902.) Dr. Lynch concluded:

I have much more confidence in the \$318 million adjustment [that Dr. Lynch calculated] than the \$115 million [in savings that Dr. Cooper calculated]. More than two-thirds of the cost left to be spent under the EPC contract are fixed or subject to fixed escalation rates. Of course, the 25% of the cost of the Units that has already been spent is fully known and measurable. On the other hand, I have already discussed the volatility and uncertainty of prices in the natural gas market. The \$115 million adjustment to the natural gas generation strategy is based on an

assumption of low gas prices over the next 40 years which is very uncertain. All indications are that the uncertainty of the gas price forecast is much greater than the uncertainty surrounding the cost of completing the construction cost of the Units.

(Tr. at 906.)

4. Mitigating Risk Through a Balanced Generation Portfolio

SCE&G's witnesses also criticized Dr. Cooper's approach for relying entirely on a single factor/single scenario cost analysis:

Experienced planners formulate generation plans by evaluating multiple sets of price and regulatory assumptions that encompass a broad range of possible conditions that the system may encounter over the 40-year planning horizon. No one scenario dictates the selection decision, as Dr. Cooper's testimony would suggest. Instead, the modeling results for many different scenarios inform the evaluation. The goal is to determine what generation choices lead to the most flexible, resilient and robust mix of generation resources. The mix we seek is the one that can perform best under the widest range of possible market, operating and regulatory conditions, and that preserves for SCE&G and its customers the best options for dealing with future uncertainty.

(Tr. at 82.) The reason for this approach is that "fossil fuel markets, and now environmental policies as to fossil fuel, are inherently volatile and cannot be predicted with certainty. Market conditions and regulatory requirements will change in ways that cannot be predicted over the 40-year plus period that fossil plants will be in service." (Tr. at 80.) Given that volatility:

[i]t is a fundamental mistake to believe that sound base load planning decisions can be made simply by modeling outcomes based upon current projections of future fossil fuel costs or regulatory conditions. Such one-dimensional analysis does not take into consideration the dynamic energy markets in which we operate or our inability to know with certainty what market, regulatory and operating conditions will be decades in the future.

In this context, one-dimensional analyses are dangerous and expose our customers to risk.

(Tr. at 80.) Mr. Marsh testified that analytical modeling is “not the end of the resource selection process, but the beginning.” (Tr. at 84.) The question to be answered is: “Which type of generation would contribute to a generation portfolio that could best respond to the widest range of potential conditions in fuel markets, operating conditions and environmental costs over the coming decades and give SCE&G the most options to respond to unanticipated conditions in the future?” (Tr. at 84-85.) That decision is not determined by any “single analysis or set of assumptions as to future natural gas costs, operating conditions or environmental costs” Tr. at 85.) Instead, it is “informed by information about how the different configurations of the system would perform across multiple sets of assumptions, combined with the business judgment and the collective wisdom of an experienced team of planners, engineers and executives.” (Tr. at 85.)

Referring to the initial decision to construct the Units, Mr. Marsh stated:

We concluded then, and still believe today, that adding nuclear generation creates a system that can perform best in the widest range of conditions over the coming decades. As I mentioned in my direct testimony in this docket, by adding nuclear generation, our generation mix in 2019 will be 27% coal, 28% natural gas, 31% nuclear and 14% hydro/biomass. This will give us the flexibility to switch between coal and gas generation as conditions warrant. It will mean that in 2019, we will have reduced our carbon emissions by 54% compared to their levels in 2005, giving us a secure position if carbon taxes, cap and trade systems, or other regulatory mechanisms impose costs on carbon emissions. Our balanced generation portfolio will also mean that as we go forward from 2019, we would have the option to add additional natural gas-fired generation to our system without fear of becoming overly reliant on natural gas as a fuel. We can also add resources like solar, wind or DSM where feasible knowing that standing behind them is a secure foundation of reliable generation.

(Tr. at 85-86.) By contrast, “[i]f the Commission were to accept Dr. Cooper’s recommendation, then in 2019, SCE&G’s customers would be relying on a generating system that generates 47% of its electricity from natural gas, which the Sierra Club opposes, and 76% from fossil fuels, which they also oppose.”⁸ (Tr. at 78.)

Mr. Marsh further testified, “More than 660,000 customers depend on SCE&G for reliable, efficient electric service Making base load selection decisions on one-dimensional analyses like Dr. Cooper’s is not how SCE&G can best fulfill its future service obligations to its customers.” (Tr. at 80-81.)

5. Dr. Lynch’s Comparative Economic Study

In his surrebuttal testimony, Dr. Cooper insisted that “the Commission needs a new economic analysis of the going forward costs to ascertain whether continuing the project is prudent.” (Tr. at 979.) In response, on September 27, 2012, SCE&G provided to the parties Dr. Lynch’s “Comparative Economic Analysis of Completing Nuclear Construction or Pursuing a Natural Gas Resource Strategy” (the “2012 Study”). It was entered into evidence, without objection, as a supplemental exhibit to the rebuttal testimony of Dr. Lynch (Hr’g Ex. 9 (JML-4)). After the 2012 Study was filed, the Sierra Club, on September 28, 2012, served SCE&G with discovery demands related to it.

⁸ Mr. Marsh also testified that Dr. Cooper’s testimony contradicts the position that the Sierra Club takes outside of this proceeding, i.e., citing the following statement from the Sierra Club: *“Fossil fuels have no part in America’s energy future—coal, oil and natural gas are literally poisoning us. The emergence of natural gas as a significant part of our energy mix is particularly frightening because it dangerously postpones investment in clean energy at a time when we should be doubling down on wind, solar and energy efficiency”.* *Beyond Natural Gas*, SIERRA CLUB, <http://content.sierraclub.org/naturalgas> (last visited August 23, 2012). Tr. at 77.

SCE&G responded to those discovery demands on September 30, 2012, in advance of the hearing.

The 2012 Study presented multi-factor scenario analyses that used the same models and approach that were used in performing the 2008 Studies. In the 2012 Study, relevant inputs were updated to reflect the current cost of completing the Units, the current capital cost of combined cycle generation, and current natural gas price forecasts based on data provided by the economic forecasting firm which SCE&G retained for that purpose (these forecasts of natural gas prices were somewhat lower than Dr. Cooper's EIA forecasts of natural gas prices). The 2012 Study was also based on current nuclear fuel cost forecasts, the Company's current cost of capital and capital structure, new substantial completion dates for the Units, the current value of production tax credits related to the Units, and current forecasts of future electric loads as used in preparing SCE&G's Integrated Resource Plan as submitted to the Commission each year. In preparing the 2012 Study, SCE&G also calculated the estimated cost of terminating the EPC Contract and subcontracts under it, and decommissioning the site. As an offset to those costs, SCE&G estimated the value it would expect to receive from selling to third parties the equipment, material and work in progress on hand. The cost to SCE&G of cancellation, net of sales and salvage, was \$543 million.⁹ (Hr'g Ex. 9.)

The 2012 Study compared the economics of completing the Units as planned in 2017 and 2018 versus abandoning construction and instead constructing two 614 MW combined-cycle gas units, providing the net generating capacity identical to the nuclear

⁹ The total amount was \$988 million. SCE&G would seek to recover 45% of that amount from Santee Cooper under their agreements concerning joint ownership of the project.

Units. To ensure comparability in the analysis, the 2012 Study assumed that the combined-cycle gas units would come on-line on the same dates as the nuclear Units being replaced. (*Id.* at 1.)

As Dr. Lynch explains, the 2012 Study assumed that normal payments under the EPC Contract would cease on January 1, 2013. The amount spent at that time would be approximately \$2 billion. Under the natural gas resource strategy, the \$2 billion spent on the abandoned nuclear construction and the \$543 million in net abandonment costs are recovered over 40 years under the terms of S.C. Code Ann. § 58-33-280(K) (Supp. 2011). (*Id.* at 2.) The nuclear resource strategy reflects the full cost of the Units of \$5.8 billion being recovered over the life of the plants.

The 2012 Study compares the revenue requirements of the nuclear and natural gas resource strategies under 27 different scenarios applying three different sets of variables. One set of variables was based upon three natural gas price forecasts: the SCE&G forecast; the SCE&G forecast plus 50%; and the SCE&G forecast plus 100%. The study considered three scenarios concerning costs related to carbon emissions effective in 2017: no cost per ton of CO₂; \$15 per ton of CO₂; and \$30 per ton of CO₂. Scenarios were run to test the sensitivity of the analysis to variations in future electric demands. The study considered high load, base load and low load forecasts. The high electric load forecast was 5% above the base electric load forecast, and the low electric load forecast was 5% below. (*Id.* at 5-8.)

The 2012 Study demonstrated that in each of the 27 scenarios, completing the Units represented the lower cost alternative than switching to a natural gas resource

strategy. In the base electric load scenario,¹⁰ the savings varied from \$26 million per year, applying base gas prices and no cost for CO₂ emissions, to \$407 million per year in the high gas scenario and a \$30 per ton CO₂ price. (*Id.* at 9.)

Chart C

	Benefit of Nuclear Strategy over the Gas Strategy Base Electric Load Scenario Levelized Present Worth of Change in Revenue Requirements Over 40 Years (\$MM)		
	<u>Base Gas</u>	<u>50% Higher Gas</u>	<u>100% Higher Gas</u>
\$0 CO ₂ Price	\$26	\$144	\$262
\$15 CO ₂ Price	\$102	\$215	\$335
\$30 CO ₂ Price	\$175	\$290	\$407

The 2012 Study found that the most reasonable scenario for planning purposes was the scenario applying base electric load, 50% higher gas prices and a \$30 per ton CO₂ price. Dr. Lynch found this scenario to be the most reasonable for two reasons. First, the moderately higher gas price reflected the fact that the SCE&G forecast was very low when compared to the EIA forecast, and the greater probability is that future gas prices will be higher than forecasted, not lower. The choice of the \$30 per ton CO₂ price reflected that this price is lower than the price used by the Federal Government in assessing the social cost of CO₂ emissions when evaluating the net impact of new regulatory action. (Tr. at 4-5.) In addition, costs substantially below that level would be insufficient to drive behavior in a way that would effectively limit emissions. In the base electric load, 50% higher gas prices and \$30 per ton CO₂ price scenario, the savings from

¹⁰ As Dr. Lynch testified, the 2012 Study results demonstrated that the analysis was not materially sensitive to what electric load forecast assumptions were made. The variation between the electric load scenarios was minimal.

completing the Units and not switching to a gas natural resource strategy is \$290 million per year.

6. Evaluation and Conclusions

The Commission finds that the evidence presented by SCE&G amply establishes the prudence of continued investment in the project. The Commission finds that Dr. Lynch's initial factor analysis and the subsequent 2012 Study are both credible and reliable evidence sufficient to support prudence of the project in all respects and meet all relevant and material points raised in Dr. Cooper's testimony.

The Commission further finds, as Dr. Lynch testified (Tr. at 930-33), that any reasonably foreseeable changes in the capital cost of the Units would not change the outcome of his analysis¹¹ or the conclusion that the nuclear resource strategy remains the most beneficial and prudent strategy for the Company under current gas price forecasts and other conditions. The Commission finds, as Mr. Marsh testified (Tr. at 82-83), that decisions concerning the construction of new base load generation plants should be made with the goal of creating a diverse and balanced generation portfolio that can perform well under multiple conditions concerning fuel costs and environmental regulations. For that reason, in establishing prudence and making siting decisions for base load units, undue weight should not be placed on any single scenario or analysis related to fuel prices or environmental costs.

¹¹ In rough terms, if a decrease in the capital cost of the Units of \$551 million results in an \$88 million change in the levelized annual savings, then all other things being equal, it would take an increase in the Units' capital cost of over \$1.8 billion to offset the \$290 million in benefits Dr. Lynch calculated. (Tr. at 904).

In addition, the Commission finds that prudence in base load selection decisions should be assessed recognizing that the benefits of fuel diversity and the flexibility to respond to future environmental regulations are important factors to be considered. The evidence presented in this docket demonstrates that additional nuclear generation will bring considerable benefits of this type to SCE&G's generation portfolio and that those benefits exist across a diverse range of possible scenarios for fuel costs and environmental regulations. Furthermore, the record here amply demonstrates that the potential risks of relying on natural gas price forecasts remaining as low as they are today are significant. For all these reasons, the Commission finds that the Company has made an affirmative and sufficient demonstration of the prudence of its nuclear construction program. (*See, e.g.*, Tr. at 899.) In any event, as noted above, while this finding is justified by the evidence, this Commission also finds that the BLRA does not require that this issue be relitigated once the initial finding has been made.

B. Update to BLRA Approved Cost Schedules

In its Petition, SCE&G asked for updates to its cost schedules in four major categories, each of which is discussed below:

1. Change Order No. 16

The Company is seeking Commission approval of the costs associated with Change Order No. 16, which represents \$137.5 million, or slightly less than half of the total change in costs requested in this proceeding. (Tr. at 187, 195.)

(a) Shield Building Redesign

The shield building design for the Westinghouse AP1000 Unit was originally approved in a Safety Evaluation Report by the NRC in 2004. It incorporated steel reinforced concrete walls and a steel reinforced concrete roof. (Tr. 1056-59.) At the time that the EPC Contract was executed the NRC had issued a draft rule for comment that would require shield buildings to be designed with greater resistance to aircraft impacts than had been required when the AP1000 reactor received its design certification in 2004. However, at the time the EPC Contract was executed, the draft rule and its requirements had not been finalized or issued. (Tr. at 192.)

To comply with the requirements of the rule as proposed, Westinghouse began work to redesign the AP1000 shield building. Westinghouse originally planned to increase the strength of the design by increasing the thickness of the shield building's reinforced steel concrete walls and roof. However, the initial work showed that meeting the requirements of the rule would require increasing the thickness of the shield building walls to an extent that would decrease the interior volume of the building to an impractical degree. Westinghouse's solution was to select a design that included a continuous shell of welded steel plates on the inside and outside of the shield building. This is referred to as a "steel composite design." Concrete would then be poured between the walls of the steel plates. The inner and outer steel shells provide strength and durability to the concrete and shear strength via metal studs, called Nelson Studs, that are anchored to the inner and outer steel shells and protrude into the space where the concrete is poured. (Tr. at 192-93.)

In addition, the new design required revisions to the structural connection between the floor support for the building (the “base mat”) and the shield building walls, as well as between the shield building and the auxiliary building. Design changes were also needed for the air inlets and the tension ring which are located at the transition between the shield building wall and the roof. (Tr. at 193.)

Steel composite design of this sort had been used in other countries, but had not been used for similar applications in the United States. For that reason, design codes certifying the strength and performance of this type of construction had not been issued in this country. As a result, the NRC required Westinghouse to conduct extensive testing to verify the performance of this design. The NRC required repeated iterations of testing before certifying the design. Difficulty with the testing and certification of this design was an important factor in Westinghouse’s inability to obtain approval of the revised design within the anticipated schedule. (Tr. at 196.)

In 2011, Westinghouse/Shaw asserted a claim under the EPC Contract for the additional costs associated with the designing, testing and construction of the new shield building design. Westinghouse/Shaw did so based on a provision of the EPC Contract that provides for change orders where cost increases are due to “uncontrollable circumstances.” Under the EPC Contract, “uncontrollable circumstances” can mean, among other things, an order or other action by a governmental authority that is not the result of the negligent or willful acts of the party claiming uncontrollable circumstances. Westinghouse/Shaw claimed that the aircraft impact rule, and its interpretation by the

NRC, was a governmental order or action that fell within the definition of uncontrollable circumstances. SCE&G challenged this claim. (Tr. at 194.)

(b) COL Delay

When the EPC Contract was executed, SCE&G and Westinghouse/Shaw anticipated that the NRC would issue the COL for the Units in mid-2011, slightly more than three years after the initial COL application was filed. As Mr. Byrne testified, that expectation was based on information provided to SCE&G and the public by the NRC.¹² This information was accepted by the parties to the EPC Contract as a reasonable basis for establishing the construction and equipment delivery schedules included in the EPC Contract. At that time, the AP1000 design had been approved for several years. The shield building redesign related to aircraft impact resistance had not begun. SCE&G had conducted nuclear operations successfully on the Jenkinsville site for decades, and the environmental, geological, and other conditions related to the site were well documented and understood. (Tr. at 199.)

¹² After the close of evidence at the hearing in this matter, Intervenor Pamela Greenlaw, as a *pro se* litigant, sought to compel SCE&G to provide additional discovery responses related to the establishment in the EPC Contract of the date of mid-2011 as the anticipated date for COL issuance. At the Commission's request that she reduce her oral request to writing, Ms. Greenlaw did so, in the form of a written Motion to Compel. In that document, she sought "certain information which should have been revealed at the October 2-3, 2012 hearing." Specifically, Ms. Greenlaw sought "documentation of inter-communications between SCE&G and the Nuclear Regulatory Commission concerning the NRC's providing a July 2011 date as possible or probable for the awarding of the COL license." Ms. Greenlaw went on to request that such documentation "include dates and the names and contact information of the specific communicants." The fact that SCE&G and Westinghouse/Shaw anticipated the COL to be issued in mid-2011 was clearly disclosed in testimony and exhibits in Docket No 2008-196-E as was the fact that there were risks of delay in issuance. Questions concerning the reasonableness of those assumptions should have been raised at that time. In addition, in this Docket, ORS witness Jones testified that he had seen a document from NRC stating that date as the anticipated date for issuance of the COL. Tr. at 1132. Further discovery on this point is not warranted; nor is the timing of the request consistent with the goals of judicial economy. The Motion is denied.

The extensive testing and verification required by the NRC for approval of the new shield building design resulted in the COL being delayed by approximately nine months. (Tr. at 195.) Again, Westinghouse/Shaw asserted that the actions of the NRC in changing the aircraft impact requirements and in requiring an extensive testing regime for the new shield building design constituted an “uncontrollable circumstance” under the EPC Contract, and was thus compensable. Westinghouse/Shaw sought a change order for their additional costs in rescheduling the project. SCE&G challenged this claim. (Tr. at 194.)

(c) Structural Module Redesign

Westinghouse/Shaw is using modular construction techniques, similar to those used in the ship building industry, to increase efficiencies, reduce costs, and further standardization in construction of the Units. Under this approach, components of certain buildings, including walls, floors, electrical conduit, doorways and stairways are fabricated as sub-modules at a dedicated facility offsite and are assembled as modules on site at the Module Assembly Building. Once assembled, they are lifted and set in place in the Units. Structural modules for this project are being fabricated at the Shaw Modular Solutions (“SMS”) facility located in Lake Charles, Louisiana.

Westinghouse’s interactions with the NRC during the design approval of the AP1000 units resulted in a determination to use higher strength steel in the structural modules being fabricated by SMS and to make other design changes to improve constructability of the modules. Westinghouse/Shaw asserted that this change in the steel

specified for these modules was due to “changed conditions” in the form of a new regulatory mandate. SCE&G challenged this claim. (Tr. at 205.)

(d) Rock Conditions at Unit 2

Despite test borings in accordance with industry standards, excavation at the site of Unit 2 revealed areas where the upper level of bedrock was deeper than anticipated. This condition required additional excavation and filling with concrete to create a level base mat for the Unit. Mr. Byrne testified that it is not unusual upon excavation at a site to find that rock conditions are not uniform and require additional work resulting in an increase in costs. In this case, Westinghouse/Shaw had a valid claim to recover additional costs resulting from unanticipated rock conditions, which SCE&G did not contest. Mr. Byrne testified that SCE&G’s audit of the supporting documentation for this claim by New Nuclear Development (“NND”) teams resulted in its reduction by several hundred thousand dollars. He testified that the resulting settlement amount for unanticipated rock conditions was fully justified and reasonable. (Tr. at 207.)

(e) SCE&G Negotiation and Review of the Westinghouse/Shaw Claims

As to all the claims related to Change Order No. 16, members of the NND teams reviewed detailed documentation supporting the costs underlying them and assessed the level of those costs based on their construction and engineering experience. (Tr. at 195, 203, 206-07). In the end, as Mr. Byrne testified, no costs were approved that were not documented and substantiated. As a result of the initial cost documentation review and negotiations on the part of SCE&G, Westinghouse/Shaw revised their cost estimates downward, and reduced their overall claim from \$213.6 million to \$188 million. SCE&G

also challenged Westinghouse/Shaw's entitlements to claims, and, as a result of continued review and negotiation, ultimately convinced Westinghouse/Shaw to settle the full package of claims for \$137.5 million. In addition, SCE&G directed Westinghouse/Shaw to take advantage of the opportunity created by the delay in the construction schedule for Unit 2 to optimize construction schedules between the Units. Doing so created efficiencies which allowed Westinghouse/Shaw to reduce their claim for COL delay costs by approximately \$15.9 million. (Tr. at 190.) ORS also reviewed the request related to Change Order No. 16 in detail and concluded that the costs were reasonable and prudent. (Tr. at 1059, 1061, 1062.)

(f) Findings of Fact Related to Change Order No. 16

The Commission finds that SCE&G has demonstrated that the adjustments to cost schedules associated with Change Order No. 16 are not the result of imprudence by the Company but represent the necessary cost of the project. Further, Change Order No. 16 reflects the cost of a reasonable and well-negotiated resolution to a complex and difficult set of claims. The Commission finds, as Mr. Byrne testified, that the Company prudently reviewed the claims being presented, and appropriately challenged them and the assumptions underlying them as necessary. The Commission finds that the amount of the settlement is reasonable and that the benefits of such a settlement to the project, as Mr. Marsh and Mr. Byrne testified, are considerable, particularly compared to the prospect of the potential divisiveness, distraction and expense of litigating claims of such complexity.

**(g) The Challenge to Macro-Corridor Approach for Siting
Transmission Lines**

An Environmental Report (“ER”) is the basis on which an Environmental Impact Statement (“EIS”) is issued for a project such as this under the National Environmental Policy Act or NEPA. (Tr. at 198, 662-63.) For an electric generation project, the Environmental Report must assess the environmental effects of any new transmission lines that are necessary to support the project.

Under the approach used by SCE&G and other utilities, the determination of the precise routing of new transmission lines is a careful process, involving substantial outreach and data collection from landowners, local governments and local communities. The process also involves public record surveys and field surveys, and reviews of existing historical, cultural and environmental data from other sources. Typically, a final route is determined only after this work is done.

To accommodate this outreach, data collection and public input process, it is an accepted practice in the industry to file Environmental Reports for new generating plants showing the general route or “macro-corridors” in which transmission lines will be sited. The Environmental Report quantifies the environmental impacts expected from lines sited in those corridors based on general data about environmental conditions and ecosystems, flora and fauna, and other concerns within the corridors. The utility commits that in constructing and siting the lines it will conform to all environmental regulations and mitigation requirements, protecting these ecosystems, flora and fauna as required by

law. (Tr. at 200). The specific route of the lines within those corridors, however, is only determined after the public input process is completed.¹³

During the hearing in this docket, SCEUC challenged several of the SCE&G witnesses concerning the Company's use of the macro-corridor approach in filing its initial COL application and associated Environmental Report on the project. The record shows that SCE&G has successfully used the macro-corridor approach in permitting generation sites in the past. (Tr. at 201.) It did so in this case with the advice and support of highly experienced environmental consultants. In addition, Southern Company successfully employed the macro-corridor approach in siting and permitting its AP1000 units at Vogtle. (Tr. at 201.) In SCE&G's case, the macro-corridor approach garnered no objections during the scoping process and initial review of the filings. However, more than one year into the review process, the EPA, a commenting agency, asserted that the macro-corridor approach was unacceptable. This required SCE&G to fully site its transmission lines before the process could proceed. (Tr. at 201-02.)

SCEUC suggested that the rejection of the macro-corridor approach made SCE&G partially to blame for the NRC's delay in issuing the COL, and thus caused SCE&G to settle the Change Order No. 16 claims on less favorable terms. SCEUC put forth no witnesses or affirmative evidence on this point. SCE&G's witnesses affirmatively testified that the use of the macro-corridor approach was reasonable and prudent in all respects. There is no evidence that SCE&G changed its negotiating

¹³ By Order Nos. 2011-978 and 2012-730, the Commission has approved and issued SCE&G a Certificate of Environmental and Compatibility and Public Convenience and Necessity for the construction and operation of the transmission lines that will extend the Units and carry power to SCE&G's load centers.

approach or granted any concessions in its negotiations with Westinghouse/Shaw based on these issues.

The Commission finds that there is no credible evidence in the record of this proceeding sufficient to allow it to conclude that the use of the macro-corridor approach by SCE&G was imprudent or unreasonable. Rather, all the available evidence points to the contrary conclusion. Furthermore, the EIS was issued months before the COL. (Tr. at 202-03.) For that reason, the Commission finds on the record here, that there is no evidence sufficient to show that one delayed the other. Moreover, the Commission finds that the assertion that the delay in issuance of the EIS impacted SCE&G's bargaining position in this matter is purely speculative.

2. Owner's Cost

The Company is seeking BLRA approval of \$131.6 million in updates to Owner's Cost. Owner's Cost, as Ms. Walker testified, includes costs that SCE&G will incur in overseeing the construction project; recruiting, hiring, housing and training staff for the Units; preparing written operating procedures for operations maintenance; ensuring the safety and security of the Units; accepting, testing and maintaining the systems and components comprising the Units as they are completed and turned over to SCE&G; providing the materials and supplies needed for maintenance of plant systems up to the date of commercial operation; testing of the Units when they are released for that purpose; and in conducting start-up activities. (Tr. at 709.) Owner's Cost also includes a number of construction related cost items for which the EPC Contract makes SCE&G responsible. These items include workers' compensation insurance for all contractors

and subcontractors on the site; builder's risk insurance; transportation insurance related to the equipment and components of the project; miscellaneous taxes including real property and certain sales taxes associated with the project; electric power and other utilities for the project; site security; and certain preconstruction costs associated with the site. *Id.*

The current Owner's Cost forecasts reflect detailed cost-center-by-cost-center budgeting by the cost center comprising the New Nuclear Development ("NND") teams. These teams have direct responsibility for the project. In addition, detailed cost-center-by-cost-center budgets have been prepared for the support services that the project will receive from other, non-nuclear areas within SCE&G and SCANA. Such costs include support services from areas such as SCANA Audit Services, Legal, Treasury, Environmental, Forestry Services, Risk Management and Insurance, Facilities Management, and multiple groups within current Nuclear Operations (*e.g.*, groups like Unit 1 Health Physics that may assist on an as-needed basis in creating staffing plans and writing operating procedures for parts of Unit 2 & 3 operations). Each cost center that anticipated direct support to the project was required to create a budget by cost type for each year through 2018 and update the budgets annually. These budgets were carefully reviewed by Ms. Walker and the Nuclear Finance group. (Tr. at 711-13.)

The Owner's Cost budget was sponsored by Ms. Walker. (See Tr. at 713, Chart B). It is a detailed budget document with over 400 individual line items. SCE&G has made the back-up information related to this budget available for review by ORS and all other parties, provided that reasonable arrangements related to confidentiality are made.

(Tr. at 715.) No party has filed any testimony challenging the prudence or reasonableness of any of the costs reflected in such Owner's Cost budget.

In Hearing Exhibit No. 6 (CLW-2), Ms. Walker provided an item-by-item analysis of the cost adjustments being presented for review in this docket. In an effort to provide more detailed information about the changes driving the \$131.6 million in newly-itemized Owner's Cost, Ms. Walker provided testimony breaking down the \$131.6 million into its principal categories and showing the changes from the previously approved budgets.

(a) Updated Staffing

The largest component of SCE&G's proposed adjustment to Owner's Cost is represented by changes to staffing. As Mr. Lavigne testified, the initial Owner's Cost projections were prepared during the period 2005-2008 based on the best information obtained from utility and nuclear trade groups, other prospective AP1000 owners, nuclear technology companies, internal SCE&G personnel with experience in nuclear operation and in overseeing major construction projects and other sources. After the EPC Contract was signed, SCE&G intensively reviewed the initial staffing, hiring and training plans for the Units based on emerging data related to the integrated site schedule, the AP1000 design, its operating and maintenance requirements, and emerging security and regulatory requirements. Such reviews also took into account SCE&G's experience in supporting the construction project and in meeting the requirements of its role and function in overseeing the cost, quality, and timeliness of the project. (Tr. at 557.) The staffing plan resulting from that review was approved in Docket No. 2010-376-E.

Since that time, Mr. Lavigne testified, SCE&G has continued to review Owner's Cost forecasts as additional information emerged concerning plant design, the events at Fukushima, security requirements at the plant, difficulties obtaining and licensing personnel, and delays in the issuance of certain permits and licenses. In the latter part of 2011, the Company established "challenge boards" comprised of experienced personnel from Unit 1 and other areas of SCE&G. The members of these boards had diverse backgrounds in nuclear operations, safety, security, plant operations and maintenance, engineering, quality systems, training, construction, planning and scheduling, outage, organizational development and planning, licensing, chemistry, documents and records, materials and procurement, health physics, and emergency planning. The challenge boards concluded that the staffing plan at that time did not provide for the hiring and training of sufficient personnel to manage startup and operate the Units reliably and effectively. (Tr. at 559.)

The reviews and refinements to staffing resulted in the addition of 95 full time equivalents ("FTEs") in Operational Readiness, 29 FTEs in Construction Oversight, Quality Assurance/Quality Control ("QA/QC") and other project support functions, and 20 FTEs in nuclear security contracting, representing a net adjustment of \$72.3 million. On a functional basis, these affected areas include: (1) Emergency Planning/Health Physics (Fukushima), (2) Operator/Training Margin, (3) APOG¹⁴/Programs/Procedures, (4) Timing Variance to Support Craft, (5) Nuclear Construction Oversight and QA/QC, (6) Security Contractors, and (7) Other. (Tr. at 562.)

¹⁴ The AP1000 Owner Group, discussed more fully below.

These updates in FTEs and in costs are set forth in the table below which is taken from Mr. Lavigne's testimony. The costs presented here reflect both the cost of additional FTEs and the cost of accelerating the hiring date of existing FTEs where doing so has been found to be important to support the training and testing schedule for the Units or otherwise meet the needs of the project.

Table D

Staffing Changes by Functional Cause

<u>Cause</u>	<u>FTE Change</u>	<u>Cost Change (millions)¹⁵</u>
Emergency Planning/Health Physics (Fukushima)	40	\$5.9
Operator/Training Margin	30	\$17.4
APOG / Programs / Procedures	22	\$15.7
Timing Variance to Support Craft and Technical Training Program	3	\$15.5
Nuclear Construction Oversight and QA/QC	26	\$8.6
Other		<u>\$3.1</u>
Total SCE&G	124	\$66.2
 Security Contractors	 <u>20</u>	 <u>\$6.1</u>
TOTAL	144	\$72.3

¹⁵ The labor costs that form part of Owner's Cost are not annual salary costs. Instead, they represent the labor costs and associated costs incurred over the ten-year life of the project for members of the NND teams. For that reason, if the decision is made to accelerate the hiring of a position by three years, all other things being equal, then there would be no increase in FTEs for the project. However, the Owner's Cost budget would increase by three times the annual salaries, benefits, facilities, IT charges and other costs associated with having that individual on staff. For that reason, the change costs for a category listed above does not necessarily correlate to the change in FTEs for that category.

(i) **Operator/Training Margin**

As Mr. Lavigne testified, the largest single driver of the staffing cost adjustment is in the area of Operator/Training Margin. SCE&G cannot complete testing and begin start up of the Units unless, when it has completed construction of the Units, the NRC is satisfied that SCE&G has sufficient reactor operators trained, licensed, and ready to allow fuel to be loaded. The staff of licensed operators must be sufficient to staff the Units twenty-four hours a day, seven days a week, with allowances for training time and personal leave and other absences for operators. Industry experience has shown that it takes 3-7 years to train and license a nuclear reactor operator.

Mr. Lavigne testified that hiring and training reactor operators have become more difficult in recent years. Given the nature of today's military, fewer candidates are available for reactor operator training who have significant nuclear experience. Due to the aging workforce of reactor operators nationally, the industry is hiring in anticipation of impending retirements. As a result, competition to attract and retain good reactor operator candidates is more intense than in the past. Furthermore, the training and testing requirements for licensure by the NRC have increased dramatically in recent years. (Tr. at 566.) As Mr. Lavigne testified, another utility recently experienced a surprisingly high failure rate when a cadre of newly-trained candidates sat for their licensure examinations. Mr. Lavigne succinctly summarized the challenge, stating "we must train less experienced candidates with less practical exposure to the work to meet higher licensing standards while facing greater competition to retain them." Tr. at 565.

In response to this challenge, SCE&G is proposing to hire more operator candidates and to hire them sooner. Hiring candidates earlier allows more time to train them. Hiring a larger group of candidates creates a buffer to protect against higher than expected attrition and exam failure rates among candidates. The change in Operator/Training Margin represents 30 FTEs and \$17.4 million of the staffing related update. (Tr. at 564-66.)

(ii) Emergency Planning/Health Physics

Another significant driver of the updated personnel costs presented here is in the Emergency Planning/Health Physics area. Mr. Lavigne testified that the industry and NRC are placing greater restrictions on the responsibilities that can be assigned to emergency personnel as a lesson-learned from the Fukushima event. Past practice allowed for emergency personnel such as fire brigade members and health physics workers to assume additional duties that were not anticipated to interfere with emergency response capabilities. In addition, emergency response personnel at one unit were assumed to be available to supplement the staff responding to a disaster at a sister unit. (Tr. at 563.) As a result of Fukushima, the NRC has published guidance limiting the number of collateral duties that may be assigned to emergency response personnel. The industry and NRC now require staffing at levels that provide a full complement of staff to be available to respond to each unit assuming simultaneous disasters at all units on a site. Mr. Lavigne testified that these new limits on shared duties for emergency personnel results in the need for an additional 40 FTEs at a cost of \$5.9 million. (Tr. at 563-64.)

(iii) APOG/Plant Programs/Procedures

An important part of preparing a new nuclear unit for operation is drafting and promulgating the plant programs and procedures that are necessary to operate and maintain the Units, respond to events and emergencies and provide for security and related functions. SCE&G has determined that operating and maintaining these Units will require drafting approximately 100 plant programs (*e.g.*, the Thermal Performance Program, the Equipment Reliability Program, and the System Status Control Program) and 4,200 procedures. Prior cost forecasts were based on the assumption that the burden and cost of drafting these programs, most of which can be uniform across AP1000 units, would be borne by five AP1000 owners comprising the AP1000 Owner Group (“APOG”). However, at present only two of the five members of the group, SCE&G and the Southern Company, have active EPC contracts with Westinghouse/Shaw. As a result, only these two members have the right under their agreements to have access to Westinghouse/Shaw’s proprietary design and engineering data related to the Units. Such access is necessary to participate in the shared drafting exercise. As a result, SCE&G and Southern Company must share the drafting responsibilities among themselves rather than among a group of five utilities. This has resulted in the need for 22 additional FTEs and represents \$15.7 million of the requested cost. (Tr. at 566-68.)

(iv) Timing Variance to Support Craft

The safe and efficient operation of the Units will require a staff of well-trained craft workers in areas such as chemistry, maintenance, outage and planning, and scheduling. In reviewing its staffing plans through the challenge board process, SCE&G

determined that three additional FTEs would be required in this area to ensure that a sufficient number of trainees will successfully complete the INPO¹⁶ accredited training programs in their areas of specialization. SCE&G also concluded that it is important that certain Unit 2 and 3 craft workers be trained earlier than expected so that they can be given the opportunity before commercial operations of those Units begin to develop hands-on experience with nuclear operations and with the systems comprising Units 2 and 3. For that reason, Mr. Lavigne testified that SCE&G had decided to hire and train craft workers earlier than anticipated to allow them to work with Westinghouse/Shaw personnel during the startup of the Units and to work alongside their colleagues at Unit 1 doing similar tasks there. The Timing Variance to Support Craft results in three additional FTEs and an increase to Owner's Cost of approximately \$15.5 million. (Tr. at 568-69.)

(v) Nuclear Construction Oversight and QA/QC

Based on experience gained so far in constructing the Units, the Company has determined that additional personnel are needed to effectively oversee the cost, quality and safety of the project. As Mr. Lavigne testified:

[T]here is no substitute for the accountability provided by an owner's direct involvement and insistence on quality and timely work. The NRC concurs in this, and has made it very clear that they hold SCE&G ultimately accountable as owner/licensee for the quality, reliability and safety of the Units as constructed. They expect SCE&G to be actively and directly involved in overseeing all aspects of the work and we agree. The value of additional personnel to oversee the construction effort and the world-wide procurement chain for this project cannot be overstated.

¹⁶ Institute of Nuclear Power Operations.

(Tr. at 569-70.) To support the desired level of QA/QC oversight, SCE&G has added 26 FTEs totaling \$8.6 million of the update. (Tr. at 570).

(vi) Security Contractors

The size of the work force required to provide security to the site is determined by threat response planning. Such planning is based on current NRC and industry guidance as to anticipated levels of threat and the required levels of security response. Threat response planning is very site-specific and depends on the precise layout of support buildings, access points, and site topography. For that reason, an updated count of security personnel needed for the Units could not be completed until the layout and configuration of the facilities on site was finalized. Since 2010, Westinghouse/Shaw's design work has progressed to the point that the site layout is well established. Based on this information, and current NRC guidance related to security planning, SCE&G has updated its security staffing plans for the Units. These refinements have resulted in SCE&G adding 20 additional FTEs for security contractors at a cost of \$6.1 million. (Tr. at 570-71.)

(vii) Other

Under the Other category are costs associated with the personnel necessary to ensure that all Westinghouse/Shaw records are obtained and captured for current and future use and are secured as required by the NRC regulations. These are QA/QC, engineering, construction and security related documents that are of importance to future operations and regulatory compliance. The number of required personnel for these tasks has increased while demand for staff in areas of business and finance have decreased.

(Tr. at 570.) The net result is an increase in forecasted staffing of three FTEs and costs of \$3.1 million.

(viii) SMS Oversight Costs

For a number of years, SCE&G has expressed concerns in update dockets and quarterly reports concerning the difficulties SMS was experiencing in establishing an effective nuclear safety culture at its facilities in Lake Charles, Louisiana. Over time, SCE&G has steadily increased its level of QA/QC oversight for SMS. Recently, SCE&G has taken the steps of placing a full time presence dedicated to owner's quality inspection at the SMS site, in addition to the dedicated QA/QC personnel located there by Westinghouse/Shaw.

At the hearing, certain parties raised concerns about SCE&G's inclusion in its forecasts of costs associated with additional costs SCE&G incurred in providing QA/QC oversight for SMS.

The Commission understands the impulse to require SMS to absorb these costs. However, it is customary in the industry, and beneficial for many reasons, for an owner's QA/QC efforts to be at its sole expense and under its exclusive authority. The EPC Contract does not provide for recovery of QA/QC expense from any other party, nor would the Commission expect it to. Under the BLRA, specifically S.C. Code Ann. § 58-33-270(E), there is no basis to rule that it was imprudent on SCE&G's part to invest additional resources in overseeing QA/QC issues at the SMS facility. To the contrary, such an investment is prudent to a very high degree. For that reason, the Commission finds that the SMS oversight costs, and oversight costs related to other suppliers and

contractors, are reasonable, prudent and necessary costs of the project and should be included in the approved capital cost schedule.

(ix) Findings Related to Staffing Costs

The Commission has reviewed the testimony and evidence presented in this docket that is related to the update in staffing costs. No evidence has been presented that is sufficient to allow the Commission to conclude that these changes were the result of imprudence by SCE&G. For the reasons stated above, and in the testimony of Mr. Byrne, Mr. Lavigne, and Ms. Walker, the Commission finds that these increases in the forecasted cost of staffing are not the result of imprudence on the part of SCE&G but instead represent reasonable, necessary and prudent costs of the project.

(x) APOG Programs/Procedures and Related Cost Increases

At the hearing, certain parties seemed to question the appropriateness of the cost forecasts for the project being increased as a result of the change in the drafting of plant programs and procedures related to APOG. The evidence clearly establishes that drafting of these programs and procedures is a reasonable, necessary and prudent part of the project. Through APOG, SCE&G is sharing the cost of this effort with the Southern Company, which will reduce the cost borne by SCE&G's customers significantly. SCE&G is acting prudently in using APOG to share these costs with additional utilities. While it would be beneficial if more utilities could share in the efforts requiring proprietary data, SCE&G cannot dictate to Westinghouse how it enforces its intellectual property rights as they affect this effort. No party offered any affirmative evidence showing that SCE&G has acted imprudently in its dealings with APOG or with the cost

of drafting the required programs and procedures. Instead, the evidence shows that SCE&G has acted prudently to reduce costs to customers by having as many utilities as possible share the cost and burden of this effort. The Commission finds that the increase in cost related to APOG Programs/Procedures is a reasonable, prudent and necessary cost of the project and should be included in the approved capital cost schedule.

(b) Facilities

The facilities component of Owner's Cost includes the construction, up-fitting and furnishing costs of the buildings, and training facilities needed to support the operations of the Units once they are constructed, and the cost incurred in providing training, office and other space for the NND teams and other members of the project team during the construction period. All of these costs are not annual costs but costs to be incurred over the ten-year course of the project. (Tr. at 718-21.)

SCE&G's witness, Ms. Walker, presented the updates to facilities costs that form part of the Owner's Cost update and provided a detailed breakdown of the categories and drivers of these costs. She testified that additional maintenance costs amounting to \$1.9 million comprised the largest single item in this cost category. These costs are the direct result of the accelerated hiring of staff detailed in Mr. Lavigne's testimony. (Tr. at 719.) The accelerated hiring schedule also drives the need to add modular buildings and temporary office space in the facilities plan during the construction period. The cost of these additional facilities represents approximately \$1.0 million. Other changes in the cost of facilities result from the increased number of dedicated emergency personnel required in response to the events at Fukushima and the facilities required to house those

personnel and equipment. Similarly, additional site planning and security planning have identified additional costs related to site-specific security facilities and other facilities related to site access. In total, the update to facilities costs represents \$7.8 million of the increase in Owner's Cost. (Tr. at 721-722.)

No party in this proceeding presented any direct evidence challenging the reasonableness or prudence of these updates to facilities costs. In its testimony, ORS's witness, Mr. Jones, found these costs are justified and reasonable. (Tr. at 1071.) Based on the testimony of Ms. Walker and Mr. Jones, the Commission finds these costs to be necessary, reasonable and prudent costs of the project. The Commission finds that no party has made any showing that these costs are in any way the result of imprudence on the part of SCE&G. It is appropriate to reflect these costs in the approved cost forecasts for the project.

(c) Information Technology ("IT") Roadmap

Effective IT infrastructure is critical to safe and efficient nuclear operations. A major part of such infrastructure is the software that is used in tracking the maintenance history of parts and equipment, documenting scheduled and preventative maintenance, tracking spare parts and inventory on hand, recording where specific parts have been used in the plant, scheduling maintenance requests, preparing work schedules, administering employee fatigue management and safety rules, and ensuring that safety and quality assurance documentation is maintained and available for use and inspection. (Tr. at 715-717.)

Ms. Walker testified to SCE&G's update to the cost forecasts for delivering IT services to the project. According to Ms. Walker, the IT budget presented in Docket No. 2010-376 was a roll-up of individual budgets for IT services formulated by the managers in each NND area for their areas. In most cases, these budgets relied on the assumption that existing Unit 1 programs and infrastructure could be scaled up to meet the IT needs of Units 2 and 3. (Tr. at 716.)

In 2011, SCANA's IT department ("SCANA IT") was tasked with creating a formal and detailed "IT Roadmap" for the project based on a thorough inventory of the available software, infrastructure and licenses, and the needs of the project and the Units. Based on its review, SCANA IT concluded that much of the IT infrastructure in use at Unit 1 was not scalable to support the new Units.

No party in this proceeding has challenged the prudence of the costs associated with implementing the new IT Roadmap. While Dr. Cooper testified that he was concerned that Unit 1 IT upgrade costs might be included in the Unit 2 and 3 cost estimates (Tr. at 971.), Mr. Byrne refuted that testimony. (Tr. at 277-78.) The Commission finds Mr. Byrne's testimony to be credible and finds no basis to conclude that Unit 1 IT costs are improperly included here.

For the reasons stated in Ms. Walker's testimony, the Commission finds that these additional IT costs are not the result of imprudence by the Company but that they are reasonable, necessary and prudent costs of the project. The Commission finds that it is appropriate to reflect them in the approved cost forecasts for the project.

(d) Conclusions as to Owner's Cost Updates

The testimony of Mr. Byrne, Mr. Lavigne, Ms. Walker, and Mr. Jones provides sufficient evidence supporting the reasonableness and prudence related to each of the components making up the \$131.6 million adjustment. The record shows that Ms. Walker testified as to the reasonableness and prudence of each of these items and to the reasonableness and prudence of the overall \$131.6 million adjustment to the Owner's Cost category. (Tr. at 708-09.) Her testimony is supported by similar testimony from Messrs. Marsh, Byrne and Lavigne. (Tr. at 43, 165, 572.) ORS also conducted its own review and provided testimony finding that the \$131.6 million of Owner's Cost represents a "reasonable cost increase for the Project." (Tr. at 1072.) The key drivers as to each element of cost have been presented clearly and distinctly in the evidence contained in this record.

As to the reasonableness of the budgets and budget process on which these Owner's Cost adjustments were based, Ms. Walker testified:

The budgets for each [item of Owner's Cost] have been carefully reviewed and evaluated for reasonableness. This analysis confirms the reasonableness of the adjustment in Owner's Costs for the categories listed above, and supports the conclusion that the updated Owner's Costs budget is a reasonable and prudent estimate of the cost associated with this construction project.

(Tr. at 770.) In addition to this testimony, ORS witness Jones testified that ORS has reviewed these costs and has determined them to be reasonable. (Tr. at 1043.)

For all the reasons set forth above, and having reviewed the testimony and the exhibits in the record of this proceeding, the Commission finds that no party has

presented evidence showing that the \$131.6 million adjustment to Owner's Cost is in any way the result of imprudence by SCE&G. Instead, the Commission finds that the update reflects a reasonable, necessary and prudent adjustment to the cost schedules for the project, and that there is no evidence in the record to suggest that they are the result of any imprudence on the part of the Company.

3. Transmission Cost

Since the issuance of Order No. 2011-345, the Company has continued to update its transmission cost forecast to reflect current information concerning the design and siting of the lines and other facilities, and the costs of right-of-way siting proceedings. SCE&G has updated its transmission cost forecast by \$7.9 million. This net increase in the transmission cost forecast is comprised of increases of (1) \$1.6 million to construct a new Saluda River Transmission ("SRT") substation, (2) \$3.6 million for other transmission line construction, (3) \$2.7 million to upgrade various substation equipment, and (4) \$1.4 million for right-of-way and property acquisition. This amount also reflects a decrease resulting from a reallocation of costs between SCE&G and Santee Cooper of \$1.4 million.

(a) The SRT Substation

SCE&G originally planned to accommodate the delivery of power from the Units into the load centers in the Lexington and Lake Murray areas by adding additional autotransformers at its existing Lake Murray 230/115 kV Substation and its Denny Terrace 230/115 kV Substation. (Tr. at 648.) However, as Mr. Young testified, recent engineering work showed that the two existing substations did not have sufficient space

to allow new autotransformers to be located in them without costly expansions. Those expansions would be equivalent to building new substations beside each of the two existing substations. Subsequent power flow studies showed that this plan would require a third transformer to be installed at the Lyles 230/115 kV Substation. (Tr. at 632, 646-650.) In addition, the decision to route the new lines to serve the Units on existing right-of-way created the opportunity to build the SRT substation in an area with high demand where a new substation would be beneficial.

The cost of the new SRT substation is \$1.6 million more than the original cost of the autotransformers design, and is much less than the cost of that design (\$27.8 million) when the costs of expanding the existing substations and adding a third transformer is considered. Other improvements benefiting the transmission system as a whole are also being made under this plan. The cost to the nuclear project is being reduced by appropriately allocating costs to system improvements where the existing transmission system, not the project to construct the Units, is the principal beneficiary of the specific costs. (Tr. at 652.)

(b) The Parr-VCSN Safeguard Line Underground

The Parr-VCSN Safeguard 115 kV Line currently provides back-up power to the safety-related components of Unit 1. (Tr. at 653.) Mr. Young testified that under the current design for the new transmission lines for the Units, the Parr-VCSN Safeguard 115 kV Line would cross five 230 kV lines at one location. In a worst-case scenario, the Parr-VCSN Safeguard Line could fall on these lines and cause all six lines to go out of service resulting in a loss of service to a large number of customers. To alleviate reliability and

safety concerns related to this configuration, a short segment of the Parr-VCSN Safeguard Line will be rebuilt underground at a cost of \$2.9 million. (Tr. at 655.)

(c) Lowering the Parr-Midway Line

The current design for the lines serving the site results in seven 230 kV lines crossing the Parr-Midway 115 kV lines. Further design and engineering reviews have shown that in the area of crossing that SCE&G must lower the Parr-Midway 115kV lines to meet NERC safety guidelines. Mr. Young testified that lowering these lines is the most cost effective solutions to address these safety concerns. The cost for lowering these lines is \$704,000. (Tr. at 656.)

(d) Various Substation Improvements

Mr. Young testified that continued design work and power flow analysis had shown that improvements to several substations across the system were required to safely and efficiently route the power from the Units to customers. Because the existing disconnect switch at V.C. Summer Switchyard No. 1 does not have the power current rating necessary to function properly when Units 2 and 3 become operational, SCE&G must replace a bus side disconnect switch as well as existing lightning arresters. The cost for these changes is \$614,000. Similarly, recent transmission design and engineering work has shown that SCE&G must also make improvements at three existing substations in order to increase their power ratings and interconnect new transmission lines with SCE&G's existing system. These improvements include an upgrade to the bus and terminal at the Canadys 230 kV Substation, an upgrade to the terminal at the Summerville 230 kV Substation, and the upgrade of two terminals at the Saluda Hydro

Substation. The estimated cost for these three substation improvements is \$2.1 million.
(Tr. at 657-59.)

(e) Costs of the Blythewood-Killian Segment

The Company is constructing the Blythewood-Killian Segment of the VCS1-Killian 230kV Line along new right-of-way. Building this segment requires SCE&G to obtain, through purchase or condemnation, right-of-way for that line. Based on the results of siting studies like those discussed above, the line as finally sited crosses an area of higher property values than was originally anticipated. Based on actual right-of-way costs incurred to date, the right-of-way cost forecast has increased by \$369,000. Several condemnations are ongoing and changes to these costs are possible but have not been finalized. (Tr. at 660.)

In Docket No. 2011-325-E, SCE&G entered into settlement agreements with Richland County and with the Town of Blythewood concerning legal challenges that they brought to the siting of the Blythewood-Killian segment in areas of concern to them. Both political subdivisions intervened in the Commission siting proceeding for the line and actively opposed the siting of the line as SCE&G proposed. SCE&G estimates that had Richland County and the Town of Blythewood prevailed in their request to reroute the line, the additional costs to the project would have been \$6.3 million and \$26.0 million, respectively. (Tr. at 662.) Complying with the request of the Town of Blythewood could have also delayed the issuance of the COL because the resulting route of the transmission lines would have been inconsistent with the route set forth in the ER on which the EIS for the COL was based.

SCE&G settled its dispute with Richland County for \$1.0 million and with the Town of Blythewood for \$450,000. The Richland County settlement included payment for a contested right-of-way easement across a large tract of county-owned land. Both settlements resolved all outstanding issues between the political subdivisions and the Company relating to the siting of the line. (Tr. at 661-63.) Pursuant to the Commission's decision in Order No. 2009-104(A) concerning allocation of the costs of these lines between the project and general transmission system improvements, SCE&G is currently requesting 74.2% of the settlement amounts be included in the cost schedules for the Units.

(f) Reductions to Allocations to Santee Cooper

The costs listed above are offset in part by a reduction in cost allowed to SCE&G for facilities that benefits both SCE&G and Santee Cooper. Historically, SCE&G and Santee Cooper have allocated the cost of shared-use transmission assets at the VC Summer site on an item-by-item basis. Specific allocations were made for individual switches, structures, and other pieces of equipment. Recently, SCE&G and Santee Cooper have agreed instead to allocate costs based on the proportion that each makes use of specific facilities like switchyards and lines rather than individual components of them. The resulting reallocation of costs between Santee Cooper and SCE&G results in an approximate \$1.4 million decrease to the transmission cost forecast. (Tr. at 664-65.)

The Commission has carefully reviewed the evidence and testimony related to transmission cost presented by the Company discussed above as well as the testimony and conclusions of the ORS (Tr. at 1123). The Commission finds that there is no

evidence establishing imprudence on the part of SCE&G. No party presented evidence contesting these costs. The Commission finds these costs to be reasonable, prudent and necessary costs of the project. They are properly included in the updated costs forecasts.

4. Other Change Orders

The cost schedules presented here for approval contain costs associated with three change orders that predate the Change Order No. 16 settlement and relate to different scopes of work. Those three additional change orders are Change Order Nos. 12, 14 and 15.¹⁷ They reflect additional costs for compliance with new federal healthcare mandates, cyber-security measures, and the minor redesign of a wastewater piping system.

Collectively, Change Order Nos. 12, 14 and 15 represent \$6.0 million of the cost update at issue here. Of these change orders, Change Order No. 14 related to cyber-security represents more than 95% of the total \$6.0 million amount. Company witnesses Mr. Byrne and Ms. Walker provided testimony as to the reasonableness and prudence of the costs reflected in these change orders. (Tr. at 208-212, 723-24.)

(a) Change Order No. 12

Change Order No. 12 is based upon a request by Westinghouse/Shaw for reimbursement of Shaw's increased costs as a result of a change in law related to portions of the Health Care and Education Reconciliation Act of 2010 (the "Health Care Act") and prior health care acts. (Tr. at 210.) The total costs associated with this change are \$135,573 and such costs are spread throughout the remaining period of the project. Mr. Byrne testified that SCE&G has verified the amounts involved and that they are accurate.

¹⁷ Change Order No. 13 was a no-cost change order related to IT workstations for plant operators.

He testified that the additional health care costs are the result of new legal requirements imposed on Westinghouse/Shaw and that they are reasonable, necessary and prudent costs of the project. (Tr. at 211.) Westinghouse/Shaw may identify other change orders related to health care costs but no additional change orders have been identified to date. (Tr. at 210.)

(b) Change Order No. 14

As Mr. Byrne testified, it has become critical as a matter of national security to protect key electric infrastructure against cyber attack. The NRC now requires robust cyber-security measures to be incorporated in all new and existing nuclear facilities. SCE&G has reached an agreement with Westinghouse/Shaw to use a phased approach for ascertaining the costs associated with strengthening the Units' defenses against cyber-attack. (Tr. at 209-10.) Change Order No. 14 reflects costs related to strengthening the Units' defenses against cyber attack.

Under the agreement between SCE&G and Westinghouse/Shaw, Phase I of the cyber-security plan will involve a review of the specific equipment and software that will be used in the Units to identify potential vulnerabilities to cyber-attack. Westinghouse/Shaw will also devise a scope of work to protect against those vulnerabilities. Phase II will involve the actual software programming and other work necessary to overcome the vulnerabilities identified in Phase I. The contractual costs of Phase I and the forecasted costs of Phase II are reflected in Change Order No. 14. The combined costs of both phases are currently estimated to be \$5.9 million. The final costs of Phase II will depend on the results of work done in Phase I. (Tr. 209-10.)

In his prefiled testimony, ORS witness Mr. Jones expressed concerns that the cost increase estimate for Phase II of the cyber-security regime might be premature. He suggested that the Commission should wait until Phase I is completed before approving any forecasted costs for Phase II. For that reason, he recommended that the Commission include only the \$914,422 cost of Phase I in approved forecasts and delay the requested \$4.9 million cost of Phase II until a later update filing when there is a better definition of the cost, time and scope attributable to such work. (Tr. at 1062-63.)

We agree with the Office of Regulatory Staff on this matter. We find that the Phase II costs in the cyber-security area will depend directly on what is done in Phase I, and that a better definition of the cost, time, and scope attributable to the work in Phase II is needed before this Commission can approve monies for Phase II of the cyber-security project. In addition, there is some discussion about the fact that Phase II costs may be shared with other AP1000 plants. It is reasonable to delay approval of these costs until the possibility of sharing is further elucidated. Phase I of the cyber-security change order is supported by the evidence of record and is properly included in the updated capital cost.

(c) Change Order No. 15

Change Order No. 15 pertains to additional costs associated with a revision of the design of the waste water discharge piping for the Units to provide for gravity drainage, and with healthcare costs related to a change in law related to portions of the Health Care and Education Reconciliation Act of 2010. Mr. Byrne testified that SCE&G prefers the gravity design because it involves fewer pumps, motors and other moving parts that

require maintenance. SCE&G understood when it submitted its COL application that there could be a charge associated with this change but that the cost would only be known when the design was complete. Now that design work is complete, Westinghouse/Shaw has determined that the cost of this work will be \$8,250. Mr. Byrne testified that SCE&G has verified this amount and finds it to be a reasonable and prudent cost that supports a beneficial change to the project design. (Tr. at 211-12.) Further, the additional proposed healthcare costs of \$135,573 covers costs related to a change in law related to portions of the Health Care and Education Reconciliation Act of 2010. This figure is also supported by the evidence.

(d) Conclusion as to the Three Change Orders

The Commission finds that no party has shown that the cost associated with these three change orders is the result of imprudence on the part of SCE&G, although we hold that the monies associated with Phase II of the cyber-security project are so indefinite and undefined at this point that we cannot approve said monies. Also, the Phase II cyber-security costs may be subject to sharing with other AP1000 plants, which is a further reason to withhold approval of such monies.

The Commission holds that, with the exception of the Phase II costs for the cyber-security project, costs associated with these three change orders are reasonable and prudent costs of the project and there is no evidence in the record to suggest otherwise. Once the monies associated with Phase II of the cyber-security project become definite and defined, and the possible sharing of these costs with other U.S. AP1000 plants has

been explored and elucidated, the Company may submit such costs to this Commission for further consideration.

C. Unanticipated Costs

At the hearing in this matter, the SCEUC seemed to take the position that the Commission might disallow certain costs because SCE&G should have anticipated them when cost schedules were presented for approval in past proceedings. (See, *e.g.*, Tr. at 331, l. 22-24; 339, l. 20-25; 586, l. 11-14.) The Commission does not adopt this approach for several reasons. The Commission finds that the cost forecasts adopted in prior orders were based on extensive evidence indicating that they represented the best information available to the Company at the time they were adopted. The forecasts were fully litigated in contested case proceedings before the Commission. The ORS carefully reviewed and audited these forecasts. Public notice was given and interested parties were given the opportunity to intervene in the proceedings as parties with full rights of discovery and cross-examination. At the hearing, the Company presented extensive testimony subject to cross-examination supporting these forecasts. On the basis of that record, the Commission entered express findings that those forecasts were reasonable and prudent. See Order No 2009-104(A); Order No. 2011-345.

The Commission does not believe that it is appropriate as a matter of regulatory practice and policy, nor is it consistent with the terms and intent of the BLRA, to rule that the failure to anticipate certain costs is imprudent, where it has already ruled, after a full contested case hearing, and a full and candid presentation of cost forecast data to the Commission, that the cost forecasts being alleged to be imprudent reasonably and

accurately reflected the anticipated cost of the Units at the time. To rule otherwise is neither fair nor logical and results in the sort of after-the-fact relitigation of prudence questions that the BLRA was intended to discourage.

D. Construction Milestone Schedule Changes

Company witness Mr. Byrne sponsored Exhibit No. 1 (SAB-3), which updates the construction milestone schedule for the Units to reflect the substantial completion date for Unit 2 of March 15, 2017, and for Unit 3 of May 15, 2018. (Tr. at 212.) Mr. Byrne testified that these updated schedules are based on construction milestones and equipment fabrication and procurement milestones provided by Westinghouse/Shaw in response to the decision to reschedule the Units. Based on Mr. Byrne's testimony, the Commission finds that the updates to the construction milestone schedule are prudent and reasonable in all respects. (Tr. at 212-13.) The updated construction schedule (attached herein as Order Exhibit 2) shall be substituted for Exhibit 1 to Order No. 2009-104(A).

IV. CONCLUSION

For the reasons set forth below, the Commission finds that the changes to the cost, with the exception of the cost of Phase II of the cyber-security project, and construction schedules proposed by SCE&G are reasonable and prudent and comport with the terms of the BLRA. Having carefully reviewed the record in this proceeding, the arguments of the parties, and the operative provisions of the BLRA, the Commission does not find any basis for concluding that the \$278.05 million in newly identified and itemized costs are in any way the result of SCE&G's failure to manage the project prudently. Instead, the evidence of record shows that the \$278.05 million in newly identified and itemized

capital costs are the result of the normal evolution and refinement of construction plans and budgets for the Units. The costs that SCE&G is incurring will ensure that the project is constructed prudently and that the Units can be operated and maintained safely and efficiently when they are completed.

As to the prudence of continuing construction of the Units, the Commission finds that SCE&G has presented evidence establishing that the most prudent, reasonable and beneficial base load resource strategy for it to pursue at this time is to complete construction of the Units as proposed. The evidence shows that it would not be prudent, reasonable or beneficial to SCE&G or its customers to switch to a natural gas resource strategy. While this finding is justified by the evidence presented at hearing, this Commission also finds that the BLRA does not require that this issue be relitigated once the initial finding has been made.

Similarly, the Commission finds that the changes in the construction schedule presented here reflect a reasonable and prudent response to the effects of the unanticipated delay in issuing the COL for the Units and other matters. This delay was not the result of any imprudence by SCE&G. The delaying of the construction schedule for one Unit and accelerating the schedule for the other does not in any material way change the benefit of the Units to SCE&G and its customers.

In accordance with the terms of S.C. Code Ann. §§ 58-33-270(E) and 58-33-270(G), the Commission finds that the revised cost (except for the Phase II costs of the cyber-security project) and construction schedules presented reflect prudent costs and schedules and should be approved.

V. PROCEDURAL FINDINGS AND LEGAL STANDARDS

1. In Order No. 2009-104(A), dated March 2, 2009, the Commission approved a capital cost schedule for the construction of two 1,117 net MW nuclear power units to be located at the SCE&G's V.C. Summer Nuclear Station near Jenkinsville, South Carolina. The approved capital cost for the project totaled \$4.5 billion in 2007 dollars.

2. In Order No. 2010-12, the Commission approved an updated construction schedule for the project and an updated capital cost schedule that reflected the updated construction schedule. The capital cost schedule approved in Order No. 2010-12 did not alter the total estimated capital cost for the Units of \$4.5 billion in 2007 dollars.

3. On August 9, 2010, the South Carolina Supreme Court issued its decision in *South Carolina Energy Users Comm. v. South Carolina Pub. Serv. Comm'n*, 388 S.C. 486, 697 S.E.2d 587 (2010), concerning SCEUC's appeal of Order No. 2009-104(A). In its Opinion, the Court ruled that contingency costs which had not been itemized or designated to specific cost categories were not permitted as a part of approved capital cost schedules under the BLRA.

4. In Order No. 2011-345, the Commission approved an updated capital cost schedule in response to the Opinion, which removed from approved schedules costs that had not been itemized to specific capital cost items and approved \$174 million in adjustments to reflect newly itemized costs. The capital cost schedule approved in Order No. 2011-345 reduced the total approved capital cost forecast for the Units to \$4.3 billion in 2007 dollars.

5. Under S.C. Code Ann. § 58-33-270(E), a utility may petition the Commission “for an order modifying any of the schedules, estimates, findings, class allocation factors, rate designs, or conditions that form part of any base load review order.” The Commission shall grant the relief requested if, after a hearing, the Commission finds “that the evidence of record justifies a finding that the changes are not the result of imprudence on the part of the utility.”

6. On May 15, 2012, SCE&G filed the Petition in this docket, pursuant to S.C. Code Ann. § 58-33-270(E) (Supp. 2010), seeking an order approving an updated capital cost and construction schedules for nuclear units.

7. The Commission convened a public hearing on this matter on October 2, 2012, which concluded on October 3, 2012.

8. No party presented any testimony or other evidence sufficient to overcome the Company’s affirmative testimony supporting the fact that the \$278.05 million in newly identified and itemized costs are prudent costs and are not in any way the result of SCE&G’s failure to manage the project prudently.

VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The updated capital cost schedule contained in Hearing Exhibit No. 6 (CLW-1) reflects \$283 million in costs that have not previously been presented to the Commission for review and approval.

2. This \$283 million is comprised of approximately \$137.5 million attributable to Change Order No. 16, representing the settlement of several matters between Westinghouse/Shaw and SCE&G; \$131.6 million in newly identified and

itemized Owner's Cost; \$7.9 million in newly identified and itemized transmission costs; and \$5.9 million and \$0.1 million respectively, in costs associated with certain change orders that have been negotiated and identified to the EPC Contract for the Units.

3. The evidence in the record demonstrates that \$278.05 million in newly identified and itemized costs are the result of the normal evolution and refinement of construction plans and budgets for the Units and are not the result of imprudence on the part of SCE&G. At some point after the Phase II cyber-security costs are more definite and certain and when the issue of sharing these costs with other AP1000 plants has been determined, the Company may bring such costs to this Commission for further consideration.

4. These additional costs are reasonable, necessary and prudent costs that SCE&G is incurring as owner of the project to ensure that the project is constructed prudently, efficiently and economically, and to ensure that the Units can be operated and maintained safely and efficiently when they are completed.

5. The updated capital cost schedule contained in Hearing Exhibit No. 6 (CLW-1), as revised to exclude Phase II cyber-security costs, also appropriately reflects changes to the cash flow forecast that have resulted from changes in the expected timing of construction costs.

6. The evidence in the record demonstrates that the changes in project cash flows represent the reasonable and necessary updating of cash flow projections and do not represent imprudence on the part of the Company.

7. The updated milestone construction cost schedule contained in Hearing Exhibit No. 1 (SAB-3) reflects the delay in the substantial completion of Unit 2 until March 15, 2017, and the acceleration of Unit 3 to May 15, 2018. The evidence shows that the delay in the NRC issuing the COL was the principal cause of the nine-month delay of this critical path item.

8. The evidence in the record shows that the delay in the substantial completion date of Unit 2 and the acceleration of the completion of Unit 3 supports updating the construction milestones for the Units and is not the result of any imprudence on the part of SCE&G.

VII. Now, therefore, IT IS HEREBY ORDERED:

1. That the capital cost schedule set forth in Hearing Exhibit No. 6 (CLW-1), as modified by the Company according to the Commission directive in this case, and attached hereto as **Order Exhibit No. 1**, shall be the approved capital cost schedule for the Units until such time as the Commission approves a substitute schedule pursuant to S.C. Code Ann. § 58-33-270(E).

2. That the construction milestones schedule set forth in Hearing Exhibit No. 1 (SAB-3), attached hereto as **Order Exhibit No. 2**, shall be the approved construction milestone schedule for the Units until such time as the Commission approves a substitute schedule pursuant to S.C. Code Ann. § 58-33-270(E).

3. The future quarterly reports filed by SCE&G under S.C. Code Ann. § 58-33-277 shall reflect the modified schedules approved in this Order.

4. This Order shall remain in full force and effect until modified by a subsequent order of the Commission.

BY ORDER OF THE COMMISSION:


David A. Wright, Chairman

ATTEST:

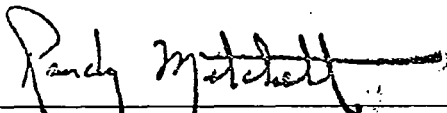

Randy Mitchell, Vice Chairman
(SEAL)

Exhibit 1

RESTATED and UPDATED CONSTRUCTION EXPENDITURES

(Thousands of \$)

V.C. Summer Units 2 and 3 - Summary of SCE&G Capital Cost Components

Actual through March 2012* plus
Projected

Plant Cost Categories	Total	Actual					Projected						
		2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Fixed with No Adjustment													
Firm with Fixed Adjustment A													
Firm with Fixed Adjustment B													
Firm with Indexed Adjustment													
Actual Craft Wages													
Non-Labor Costs													
Time & Materials													
Owners Costs													
Transmission Costs	329,512	-	26	724	827	11,964	57,206	58,903	57,508	77,990	84,727	1,537	-
Total Base Project Costs(2007 \$)	4,548,405	21,723	97,386	319,073	374,810	314,977	613,678	780,753	792,394	847,285	386,537	142,999	58,781
Total Project Escalation	988,444	-	3,519	20,930	23,741	34,084	99,630	189,425	215,175	183,987	134,815	58,409	24,728
Total Revised Project Cash Flow	5,516,849	21,723	100,905	340,003	398,551	349,061	713,307	950,179	1,007,569	831,281	521,351	201,408	81,510
Cumulative Project Cash Flow(Revised)		21,723	122,829	482,832	881,183	1,210,244	1,923,551	2,873,730	3,881,299	4,712,580	5,233,931	5,435,339	5,516,849
AFUDC(Capitalized Interest)	237,715	845	3,497	10,564	17,150	14,218	20,449	38,384	42,868	40,888	27,518	15,391	6,144
Gross Construction	5,754,565	22,368	104,403	350,567	415,701	363,278	733,757	988,683	1,050,437	872,169	548,870	216,798	87,864
Construction Work in Progress		22,368	126,771	477,338	893,038	1,256,317	1,990,074	2,878,637	4,029,074	4,801,243	5,450,113	5,666,811	5,754,565

*Applicable Index escalation rates for 2012 are estimated. Escalation is subject to restatement when actual indices for 2012 are final.

Notes:

Current Period AFUDC rate applied

5.28%

Escalation rates vary from reporting period to reporting period according to the terms of Commission Order 2009-104(A). Those projections reflect current escalation rates. Future changes in escalation rates could substantially change those projections. The AFUDC rate applied is the current SCE&G rate. AFUDC rates can vary with changes in market interest rates, SCE&G's embedded cost of capital, capitalization rates, construction work in process, and SCE&G's short-term debt outstanding.

**BLRA Revised Milestones
VC Summer Units 2 and 3**

Exhibit No. ____ (SAB-3)

Tracking ID	Milestone Description	Revised Completion Date	Unit
1	Approve Engineering Procurement and Construction Agreement	Complete	
2	Issue P.O.'s to nuclear component fabricators for Units 2 and 3 Containment Vessels	Complete	
3	Contractor Issue PO to Passive Residual Heat Removal Heat Exchanger Fabricator - First Payment - Unit 2	Complete	
4	Contractor Issue PO to Accumulator Tank Fabricator - Unit 2	Complete	
5	Contractor Issue PO to Core Makeup Tank Fabricator - Units 2 & 3	Complete	
6	Contractor Issue PO to Squib Valve Fabricator - Units 2 & 3	Complete	
7	Contractor Issue PO to Steam Generator Fabricator - Units 2 & 3	Complete	
8	Contractor Issue Long Lead Material PO to Reactor Coolant Pump Fabricator - Units 2 & 3	Complete	
9	Contractor Issue PO to Pressurizer Fabricator - Units 2 & 3	Complete	
10	Contractor Issue PO to Reactor Coolant Loop Pipe Fabricator - First Payment - Units 2 & 3	Complete	
11	Reactor Vessel Internals - Issue Long Lead Material PO to Fabricator - Units 2 and 3	Complete	
12	Contractor Issue Long Lead Material PO to Reactor Vessel Fabricator - Units 2 & 3	Complete	
13	Contractor Issue PO to Integrated Head Package Fabricator - Units 2 & 3	Complete	
14	Control Rod Drive Mechanism Issue PO for Long Lead Material to Fabricator - Units 2 and 3 - first payment	Complete	

**BLRA Revised Milestones
VC Summer Units 2 and 3**

Exhibit No. ____ (SAB-3)

Tracking ID	Milestone Description	Revised Completion Date	Unit
15	Issue P.O.'s to nuclear component fabricators for Nuclear Island structural CA20 Modules	Complete	
16	Start Site Specific and balance of plant detailed design	Complete	
17	Instrumentation & Control Simulator - Contractor Place Notice to Proceed - Units 2 & 3	Complete	
18	Steam Generator - Issue Final PO to Fabricator for Units 2 and 3	Complete	
19	Reactor Vessel Internals - Contractor Issue PO for Long Lead Material (Heavy Plate and Heavy Forgings) to Fabricator - Units 2 & 3	Complete	
20	Contractor Issue Final PO to Reactor Vessel Fabricator - Units 2 & 3	Complete	
21	Variable Frequency Drive Fabricator Issue Transformer PO - Units 2 & 3	Complete	
22	Start clearing, grubbing and grading	Complete	
23	Core Makeup Tank Fabricator Issue Long Lead Material PO - Units 2 & 3	Complete	
24	Accumulator Tank Fabricator Issue Long Lead Material PO - Units 2 & 3	Complete	
25	Pressurizer Fabricator Issue Long Lead Material PO - Units 2 & 3	Complete	
26	Reactor Coolant Loop Pipe - Contractor Issue PO to Fabricator - Second Payment - Units 2 & 3	Complete	
27	Integrated Head Package - Issue PO to Fabricator - Units 2 and 3 - second payment	Complete	
28	Control Rod Drive Mechanisms - Contractor Issue PO for Long Lead Material to Fabricator - Units 2 & 3	Complete	
29	Contractor Issue PO to Passive Residual Heat Removal Heat Exchanger Fabricator - Second Payment - Units 2 & 3	Complete	

**BLRA Revised Milestones
VC Summer Units 2 and 3**

Exhibit No. ____ (SAB-3)

Tracking ID	Milestone Description	Revised Completion Date	Unit
30	Start Parr Road intersection work.	Complete	
31	Reactor Coolant Pump - Issue Final PO to Fabricator - Units 2 and 3	Complete	
32	Integrated Heat Packages Fabricator Issue Long Lead Material PO - Units 2 & 3	Complete	
33	Design Finalization Payment 3	Complete	
34	Start site development	Complete	
35	Contractor Issue PO to Turbine Generator Fabricator - Units 2 & 3	Complete	
36	Contractor Issue PO to Main Transformers Fabricator - Units 2 & 3	Complete	
37	Core Makeup Tank Fabricator Notice to Contractor Receipt of Long Lead Material - Units 2 & 3	Complete	
38	Design Finalization Payment 4	Complete	
39	Turbine Generator Fabricator Issue PO for Condenser Material - Unit 2	Complete	
40	Reactor Coolant Pump Fabricator Issue Long Lead Material Lot 2 - Units 2 & 3	Complete	
41	Passive Residual Heat Removal Heat Exchanger Fabricator Receipt of Long Lead Material - Units 2 & 3	Complete	
42	Design Finalization Payment 5	Complete	
43	Start erection of construction buildings, to include craft facilities for personnel, tools, equipment; first aid facilities; field offices for site management and support personnel; temporary warehouses; and construction hiring office.	Complete	
44	Reactor Vessel Fabricator Notice to Contractor of Receipt of Flange Nozzle Shell Forging - Unit 2	Complete	

**BLRA Revised Milestones
VC Summer Units 2 and 3**

Exhibit No. ____ (SAB-3)

Tracking ID	Milestone Description	Revised Completion Date	Unit
45	Design Finalization Payment 6	Complete	
46	Instrumentation and Control Simulator - Contractor Issue PO to Subcontractor for Radiation Monitor System - Units 2 & 3	Complete	
47	Reactor Vessel Internals - Fabricator Start Fit and Welding of Core Shroud Assembly - Unit 2	Complete	
48	Turbine Generator Fabricator Issue PO for Moisture Separator Reheater/Feedwater Heater Material - Unit 2	Complete	
49	Reactor Coolant Loop Pipe Fabricator Acceptance of Raw Material - Unit 2	Complete	
50	Reactor Vessel Internals - Fabricator Start Weld Neutron Shield Spacer Pads to Assembly - Unit 2	7/31/2012	Unit 2
51	Control Rod Drive Mechanisms - Fabricator to Start Procurement of Long Lead Material - Unit 2	Complete	
52	Contractor Notified that Pressurizer Fabricator Performed Cladding on Bottom Head - Unit 2	Complete	
53	Start excavation and foundation work for the standard plant for Unit 2	Complete	
54	Steam Generator Fabricator Notice to Contractor of Receipt of 2nd Steam Generator Tubesheet Forging - Unit 2	Complete	
55	Reactor Vessel Fabricator Notice to Contractor of Outlet Nozzle Welding to Flange Nozzle Shell Completion - Unit 2	Complete	
56	Turbine Generator Fabricator Notice to Contractor Condenser Fabrication Started - Unit 2	Complete	

**BLRA Revised Milestones
VC Summer Units 2 and 3**

Exhibit No. ____ (SAB-3)

Tracking ID	Milestone Description	Revised Completion Date	Unit
57	Complete preparations for receiving the first module on site for Unit 2.	Complete	
58	Steam Generator Fabricator Notice to Contractor of Receipt of 1st Steam Generator Transition Cone Forging - Unit 2	Complete	
59	Reactor Coolant Pump Fabricator Notice to Contractor of Manufacturing of Casing Completion - Unit 2	Complete	
60	Reactor Coolant Loop Pipe Fabricator Notice to Contractor of Machining, Heat Treating & Non-Destructive Testing Completion - Unit 2	Complete	
61	Core Makeup Tank Fabricator Notice to Contractor of Satisfactory Completion of Hydrotest - Unit 2	9/30/2012	Unit 2
62	Polar Crane Fabricator Issue PO for Main Hoist Drum and Wire Rope - Units 2 & 3	Complete	
63	Control Rod Drive Mechanisms - Fabricator to Start Procurement of Long Lead Material - Unit 3	Complete	
64	Turbine Generator Fabricator Notice to Contractor Condenser Ready to Ship - Unit 2	Complete	
65	Start placement of mud mat for Unit 2	6/29/2012	Unit 2
66	Steam Generator Fabricator Notice to Contractor of Receipt of 1st Steam Generator Tubing - Unit 2	Complete	
67	Pressurizer Fabricator Notice to Contractor of Welding of Upper and Intermediate Shells Completion - Unit 2	Complete	
68	Reactor Vessel Fabricator Notice to Contractor of Closure Head Cladding Completion - Unit 3	6/30/2012	Unit 3

**BLRA Revised Milestones
VC Summer Units 2 and 3**

Exhibit No. ____ (SAB-3)

Tracking ID	Milestone Description	Revised Completion Date	Unit
69	Begin Unit 2 first nuclear concrete placement	8/24/2012	Unit 2
70	Reactor Coolant Pump Fabricator Notice to Contractor of Stator Core Completion - Unit 2	Complete	
71	Fabricator Start Fit and Welding of Core Shroud Assembly - Unit 2	Complete	
72	Steam Generator Fabricator Notice to Contractor of Completion of 1st Steam Generator Tubing Installation - Unit 2	Complete	
73	Reactor Coolant Loop Pipe - Shipment of Equipment to Site - Unit 2	12/31/2012	Unit 2
74	Control Rod Drive Mechanism - Ship Remainder of Equipment (Latch Assembly & Rod Travel Housing) to Head Supplier - Unit 2	6/30/2012	Unit 2
75	Pressurizer Fabricator Notice to Contractor of Welding of Lower Shell to Bottom Head Completion - Unit 2	Complete	
76	Steam Generator Fabricator Notice to Contractor of Completion of 2nd Steam Generator Tubing Installation - Unit 2	5/31/2012	Unit 2
77	Design Finalization Payment 14	Complete	
78	Set module CA04 for Unit 2	11/6/2012	Unit 2
79	Passive Residual Heat Removal Heat Exchanger Fabricator Notice to Contractor of Final Post Weld Heat Treatment - Unit 2	Complete	
80	Passive Residual Heat Removal Heat Exchanger Fabricator Notice to Contractor of Completion of Tubing - Unit 2	5/31/2012	Unit 2

**BLRA Revised Milestones
VC Summer Units 2 and 3**

Exhibit No. ____ (SAB-3)

Tracking ID	Milestone Description	Revised Completion Date	Unit
81	Polar Crane Fabricator Notice to Contractor of Girder Fabrication Completion - Unit 2	10/31/2012	Unit 2
82	Turbine Generator Fabricator Notice to Contractor Condenser Ready to Ship - Unit 3	8/31/2013	Unit 3
83	Set Containment Vessel ring #1 for Unit 2	1/7/2013	Unit 2
84	Reactor Coolant Pump Fabricator Delivery of Casings to Port of Export - Unit 2	7/31/2012	Unit 2
85	Reactor Coolant Pump Fabricator Notice to Contractor of Stator Core Completion - Unit 3	8/31/2013	Unit 3
86	Reactor Vessel Fabricator Notice to Contractor of Receipt of Core Shell Forging - Unit 3	Complete	
87	Contractor Notified that Pressurizer Fabricator Performed Cladding on Bottom Head - Unit 3	Complete	
88	Set Nuclear Island structural module CA03 for Unit 2	6/26/2013	Unit 2
89	Squib Valve Fabricator Notice to Contractor of Completion of Assembly and Test for Squib Valve Hardware - Unit 2	5/31/2012	Unit 2
90	Accumulator Tank Fabricator Notice to Contractor of Satisfactory Completion of Hydrotest - Unit 3	3/31/2013	Unit 3
91	Polar Crane Fabricator Notice to Contractor of Electric Panel Assembly Completion - Unit 2	3/31/2013	Unit 2
92	Start containment large bore pipe supports for Unit 2	6/28/2013	Unit 2

**BLRA Revised Milestones
VC Summer Units 2 and 3**

Exhibit No. ____ (SAB-3)

Tracking ID	Milestone Description	Revised Completion Date	Unit
93	Integrated Head Package - Shipment of Equipment to Site - Unit 2	3/31/2013	Unit 2
94	Reactor Coolant Pump Fabricator Notice to Contractor of Final Stator Assembly Completion - Unit 2	5/31/2013	Unit 2
95	Steam Generator Fabricator Notice to Contractor of Completion of 2nd Steam Generator Tubing Installation - Unit 3	6/30/2013	Unit 3
96	Steam Generator Fabricator Notice to Contractor of Satisfactory Completion of 1st Steam Generator Hydrotest - Unit 2	1/31/2013	Unit 2
97	Start concrete fill of Nuclear Island structural modules CA01 and CA02 for Unit 2	4/3/2014	Unit 2
98	Passive Residual Heat Removal Heat Exchanger - Delivery of Equipment to Port of Entry - Unit 2	12/31/2012	Unit 2
99	Refueling Machine Fabricator Notice to Contractor of Satisfactory Completion of Factory Acceptance Test - Unit 2	11/30/2013	Unit 2
100	Deliver Reactor Vessel Internals to Port of Export - Unit 2	1/31/2014	Unit 2
101	Set Unit 2 Containment Vessel #3	4/24/2014	Unit 2
102	Steam Generator - Contractor Acceptance of Equipment at Port of Entry - Unit 2	7/31/2013	Unit 2
103	Turbine Generator Fabricator Notice to Contractor Turbine Generator Ready to Ship - Unit 2	4/30/2013	Unit 2
104	Pressurizer Fabricator Notice to Contractor of Satisfactory Completion of Hydrotest - Unit 3	3/31/2014	Unit 3

**BLRA Revised Milestones
VC Summer Units 2 and 3**

Exhibit No. ____ (SAB-3)

Tracking ID	Milestone Description	Revised Completion Date	Unit
105	Polar Crane - Shipment of Equipment to Site - Unit 2	1/31/2014	Unit 2
106	Receive Unit 2 Reactor Vessel on site from fabricator	5/13/2014	Unit 2
107	Set Unit 2 Reactor Vessel	6/23/2014	Unit 2
108	Steam Generator Fabricator Notice to Contractor of Completion of 2nd Channel Head to Tubesheet Assembly Welding - Unit 3	12/31/2013	Unit 3
109	Reactor Coolant Pump Fabricator Notice to Contractor of Final Stator Assembly Completion - Unit 3	8/31/2014	Unit 3
110	Reactor Coolant Pump - Shipment of Equipment to Site (2 Reactor Coolant Pumps) - Unit 2	10/31/2013	Unit 2
111	Place first nuclear concrete for Unit 3	10/9/2013	Unit 3
112	Set Unit 2 Steam Generator	10/23/2014	Unit 2
113	Main Transformers Ready to Ship - Unit 2	9/30/2013	Unit 2
114	Complete Unit 3 Steam Generator Hydrotest at fabricator	2/28/2014	Unit 3
115	Set Unit 2 Containment Vessel Bottom Head on basemat legs	10/11/2012	Unit 2
116	Set Unit 2 Pressurizer Vessel	5/16/2014	Unit 2

**BLRA Revised Milestones
VC Summer Units 2 and 3**

Exhibit No. ____ (SAB-3)

Tracking ID	Milestone Description	Revised Completion Date	Unit
117	Reactor Coolant Pump Fabricator Notice to Contractor of Satisfactory Completion of Factory Acceptance Test - Unit 3	2/28/2015	Unit 3
118	Deliver Reactor Vessel Internals to Port of Export - Unit 3	6/30/2015	Unit 3
119	Main Transformers Fabricator Issue PO for Material - Unit 3	2/28/2015	Unit 3
120	Complete welding of Unit 2 Passive Residual Heat Removal System piping	2/5/2015	Unit 2
121	Steam Generator - Contractor Acceptance of Equipment at Port of Entry - Unit 3	4/30/2015	Unit 3
122	Refueling Machine - Shipment of Equipment to Site - Unit 3	2/28/2015	Unit 3
123	Set Unit 2 Polar Crane	1/9/2015	Unit 2
124	Reactor Coolant Pumps - Shipment of Equipment to Site - Unit 3	6/30/2015	Unit 3
125	Main Transformers Ready to Ship - Unit 3	7/31/2015	Unit 3
126	Spent Fuel Storage Rack - Shipment of Last Rack Module - Unit 3	7/31/2014	Unit 3
127	Start electrical cable pulling in Unit 2 Auxillary Building	8/14/2013	Unit 2
128	Complete Unit 2 Reactor Coolant System cold hydro	1/22/2016	Unit 2

**BLRA Revised Milestones
VC Summer Units 2 and 3**

Exhibit No. ____ (SAB-3)

Tracking ID	Milestone Description	Revised Completion Date	Unit
129	Activate class 1E DC power in Unit 2 Auxiliary Building.	3/15/2015	Unit 2
130	Complete Unit 2 hot functional test.	5/3/2016	Unit 2
131	Install Unit 3 ring 3 for containment vessel	8/25/2015	Unit 3
132	Load Unit 2 nuclear fuel	9/15/2016	Unit 2
133	Unit 2 Substantial Completion	3/15/2017	Unit 2
134	Set Unit 3 Reactor Vessel	10/22/2015	Unit 3
135	Set Unit 3 Steam Generator #2	2/25/2016	Unit 3
136	Set Unit 3 Pressurizer Vessel	7/16/2015	Unit 3
137	Complete welding of Unit 3 Passive Residual Heat Removal System piping	6/16/2016	Unit 3
138	Set Unit 3 polar crane	5/9/2016	Unit 3
139	Start Unit 3 Shield Building roof slab rebar placement	5/26/2016	Unit 3
140	Start Unit 3 Auxiliary Building electrical cable pulling	11/7/2014	Unit 3

**BLRA Revised Milestones
VC Summer Units 2 and 3**

Exhibit No. ____ (SAB-3)

Tracking ID	Milestone Description	Revised Completion Date	Unit
141	Activate Unit 3 Auxiliary Building class 1E DC power	5/15/2016	Unit 3
142	Complete Unit 3 Reactor Coolant System cold hydro	3/22/2017	Unit 3
143	Complete Unit 3 hot functional test	7/3/2017	Unit 3
144	Complete Unit 3 nuclear fuel load	11/15/2017	Unit 3
145	Begin Unit 3 full power operation	4/8/2018	Unit 3
146	Unit 3 Substantial Completion	5/15/2018	Unit 3