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DAN F. ARNETT
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November 4, 2005

VIA HAND DELIVERY

Charles L. A. Terreni, Esquire
Chief Clerk and Administrator
Public Service Commission of South Carolina
Post Office Box 11649
Columbia, South Carolina 29211

Re: Progress Energy Allowable Ex Parte Communication Briefing on November 1, 2005

Dear Mr. Terreni:

Pursuant to the provisions of Section 58-3-260 of the S.C. Code of Laws and as Mr. Scott's designee, I am attaching my certified statement with copies of the statements from all persons present at the November 1, 2005 briefing (see sign-in sheet also attached).

Please find enclosed a copy of the materials distributed by Progress Energy and SCE&G at the meeting as well as a copy of the verbatim transcript of the briefing. It is my understanding that the transcript of the briefing is posted on your website, and this transcript is incorporated by reference in all of the certified statements. Please contact me if you have any questions with respect to the materials referenced in the transcript. Copies of the North Carolina net metering rule and economic dispatch study comments filed by Progress Energy, Duke and SCE&G with the Department of Energy are also attached.

Due to the voluminous number of pages in the Energy Policy Act, the Public Utility Holding Company Act of 1934, the Public Utility Regulatory Policies Act of 1978, FERC Order 888 and the Price Anderson Act web addresses are included for each of these documents referenced in the transcript.

As required by law, please post all of the documents relating to this briefing on your website.

Thank you for your assistance.

Sincerely,

Wendy B. Cartledge

Wendy B. Cartledge
Attorney

Attachments

Form #6

ALLOWABLE EX PARTE COMMUNICATION BRIEFING

CERTIFIED STATEMENT

(ORS Executive Director or Designee)

THIS CERTIFICATION IS TO:

- BE SIGNED BY EXECUTIVE DIRECTOR OR HIS DESIGNEE, AND
- BE FILED WITH THE CHIEF CLERK OF THE PUBLIC SERVICE COMMISSION **WITHIN SEVENTY-TWO HOURS** OF THIS BRIEFING.

Name: Wendy B. Cartledge	Date of Meeting: November 1, 2005
ORS Position Title: Attorney	Matter: Energy Policy Act of 2005
	Docket No.:

By signing this Certification, I certify that:

8. The briefing was conducted in compliance with the provisions of S.C. Code Ann. §58-3-260(C)(6).

9. EACH PERSON present at the briefing complied with the reporting and certification requirements of (ii), (iii), and (iv) within 48 hours after the briefing.

    a. The subsection (ii) and (iii) requirements are that EACH ATTENDEE INCLUDING EACH COMMISSIONER AND EACH COMMISSION EMPLOYEE is to file a certification with the ORS:

        i. That accurately summarizes the discussions occurring during the briefing. [S.C. Code Ann. §58-3-260(C)(6)(a)(ii)]

        ii. With copies attached of any written materials utilized, referenced, or distributed during the briefing. [S.C. Code Ann. §58-3-260(C)(6)(a)(ii)]

        iii. That no commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or

prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [S.C. Code Ann. §58-3-260(C)(6)(a)(iii)]

b. The subsection (iv) requirement is that EACH COMMISSIONER AND EACH COMMISSION EMPLOYEE present at the briefing file a certification that they will comply with State law requiring them to grant to every other party or person requesting an allowable ex parte communication briefing on the same or similar matter that is or can reasonably be expected to become an issue in a proceeding, similar access and a reasonable opportunity to communicate, directly or indirectly, regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding under the provisions of subsection S.C. Code Ann. §58-3-260(C)(6). [S.C. Code Ann. §58-3-260(C)(6)(a)(iv)]

10. Copies of all certified statements and all other matters filed with the ORS by briefing attendees pursuant to(C)(6)(a)(ii), (iii), and (iv) are attached to this certification.

11. Persons and matters not in compliance with S.C. Code Ann. §58-3-260(C)(6) are listed in the lines below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. I further certify that if the lines are blank that all attendees or matters for this briefing are in compliance.

This concludes my Certified Statement.

Wendy B. Cartledge

Signature of Office of Regulatory Staff
Executive Director or Designee

Date: November 4, 2005

1 **BEFORE THE PUBLIC SERVICE COMMISSION of SOUTH CAROLINA**

2 **COLUMBIA, SOUTH CAROLINA**

3

Allowable *Ex Parte* Communication Briefing

4

NOVEMBER. 1, 2005 - 10:33 a.m.

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CAROLINA POWER & LIGHT, d/b/a PROGRESS ENERGY
7 **CAROLINAS, INC.** - *A Request for an Allowable Ex Parte Communication Briefing Pursuant to S.C. Code Ann. Section*
8 *58-3-260 et seq., Regarding Impact of the Federal Energy Policy Act of 2005.*

9

10 **BRIEFING BEFORE:** Randy Mitchell, Chairman, Commissioners C. Robert Moseley, G. O'Neal Hamilton, Elizabeth
11 B. "Lib" Fleming.

12

STAFF: Charles L.A. Terreni, Chief Clerk; Jocelyn
13 G. Boyd, Deputy Clerk; Dr. James Spearman.

14

APPEARANCES: Len S. Anthony, Deputy General
15 Counsel-Regulatory Affairs, Progress Energy; Patricia Morrison, Esq., SCE&G; Ollie Frazier, Duke Power; James
16 Thorne, Santee Cooper; Wendy B. Cartledge, Office of Regulatory Staff.

17

18 COURT REPORTER: Janet L. LeVeque, RPR

19

20 **TRANSCRIPT OF PROCEEDINGS**

21 **VOLUME 1 of 1**

22

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1 CHAIRMAN MITCHELL: Be seated,
2 please. I'll call the hearing to order
3 at this time. I believe that, Mr.
4 Anthony, are you chairing this session?
5 MR. ANTHONY: Unfortunately I am,
6 sir. How are you?
7 CHAIRMAN MITCHELL: Glad to have all
8 of you with us today. Turn it over to
9 you, Len.
10 PRESENTATION BY MR. ANTHONY:
11 Thank you.
12 Good morning, Chairman Mitchell, Commissioner
13 Moseley and Commisioner Fleming. Thank you for allowing us to
14 be here to provide you an educational briefing on the brand
15 new spanking Energy Policy Act of 2005.
16 Catherine Taylor asked me to let you know she is
17 terribly sorry to not be here. She's having some child care
18 problems, and also her mother, who was going to be looking
19 after her children this morning, has had a problem that
20 required her to be hospitalized, so Catherine is on her way to
21 make sure her mom is okay.
22 Today I'm going to stay on task a little more today,
23 I hope. As we go through this presentation -- you've got the
24 handout -- primarily I'm here to talk about the portions of
25 the Energy Policy Act that appears will either directly affect

1 the Commission or will require FERC, the Federal Energy
2 Regulatory Commission, that you probably want to be
3 monitoring, because they either require the assistance of the
4 states, they require participation by NERUC, for the results
5 of them will impact the utilities that you regulate.
6 The Energy Policy Act is a comprehensive document
7 that does many, many things other than deal with electric
8 utilities, and my first few slides are designed to give you an
9 idea of the breadth of the topics that were covered. For
10 instance, there are tax incentives and other incentives being
11 provided to energy users, both governmental and private, to
12 encourage them to put in greater insulation in their homes, to
13 seal their ductwork, to put in higher efficiency appliances.
14 All of those things designed to encourage the nation to
15 consume electricity as efficiently and as cost effectively as
16 possible.
17 There are tax incentives being offered and other
18 types of financial incentives to encourage the construction of
19 nuclear plants and clean coal. Most importantly, coal
20 gasification projects.
21 There is going to be an electric reliability
22 organization created that, the best way to think of that is
23 the NERC, the North American Electric Reliability Council,
24 which has been a voluntary organization that all utilities and
25 transmission providers have joined and participated in, that

1 has established the reliability standards that are followed by
2 all of the utilities to ensure that lights stay on. That
3 organization, again, is voluntary, is going to become
4 mandatory. I'll circle back to that one because that's a
5 fairly important item for the utilities of the state as well
6 as this Commission.
7 The next slide is a quick overview and we'll again
8 touch upon these in more detail in just a moment. The
9 proceedings that the states are required to conduct by the
10 Energy Policy Act, and in this state you're going to be
11 required to at least consider four different topics and then
12 make a decision as to whether you should implement the
13 initiatives that are described there.
14 The Energy Policy Act repeals the Public Utility
15 Holding Company Act of 1934. It's gone. As of February 8th,
16 2006, PUHCA will be repealed. In its place, the Federal
17 Energy Regulatory Commission is going to be granted primarily
18 powers over access to books and records. And we'll again
19 touch on that because that has some fairly significant impacts
20 to the states. The rules regarding qualifying facilities,
21 cogenerators, those are also being changed.
22 With regard to the construction of transmission
23 lines in general, the FERC is instructed to adopt incentive
24 rates to encourage the construction of new transmission, as
25 well as to encourage the transfer of operational control of

1 utility transmission facilities on an independent system
2 operator or RTO, regional transmission organization. It
3 requires studies of economic dispatch, and again I'll hit on
4 that in a moment, because it's an extraordinarily important
5 topic, and I know Commissioner Hamilton is well aware of the
6 concept of economic dispatch. He's on the joint board for the
7 South, in conjunction with the FERC, to study that issue.
8 Importantly, the Energy Policy Act retains or
9 reaffirms the fact that transmission providers and entities
10 that have transmission rights are allowed to use those rights
11 and those facilities primarily to serve their native load
12 customers, those entities that the utilities, the load-serving
13 entities have an obligation to serve. FERC has given
14 back-stop transmission authority for congested, for the siting
15 of transmission to relieve national corridors that have
16 important national interest on the Department of Energy.
17 We'll establish that criteria, and then the FERC will be the
18 back-stop siting agency for allowing the construction of the
19 lines. And again we'll touch on that more.
20 Let me skip on to slide 5 and let's jump right into
21 the areas that the states are going to have to consider. The
22 Energy Policy Act amended the Public Utility Regulatory
23 Policies Act of 1978 with regard to these four topics
24 identified on this slide 5. What it did, it says the states
25 are required to conduct proceedings to consider adopting the

1 measures that we're about to discuss. The states are not
2 required to adopt these measures. You're simply required to
3 consider them. But that's going to require you to have either
4 a single proceeding, in which you consider all of them, or
5 four separate proceedings.
6 The first one is a thing called net metering. Net
7 metering, in its simplest form, is when Bob Moseley puts in a
8 generator at Irmo Insurance Agency. He is both displacing
9 purchasing power from SCE&G, because he doesn't need their
10 power when his generator is running; but, if his generator is
11 capable of producing more electricity than Irmo Insurance
12 Agency needs, the electricity flows back out onto the grid to
13 help SCE&G meet the needs of its other customers.
14 And the purest of net metering proponents would say
15 the meter should just simply spin backwards, so there could be
16 months in which not only does Irmo Insurance Agency owes no
17 money to SCE&G, SCE&G might owe money to Irmo Insurance
18 Agency.
19 There are those that have said that's an
20 inappropriate process in the sense that when the meter is
21 spinning backwards, why should Irmo Insurance get a full
22 credit for the electricity it is producing when SCE&G is not
23 avoiding all the lines, poles, transformers, billing system,
24 et cetera, that they have built in order to serve Irmo
25 Insurance Agency and that they still must maintain in order to

1 meet Irmo Insurance Agency's needs when the generator is not
2 running. Because when the generator is running, the only cost
3 that SCE&G is actually avoiding are fuel costs. So there is a
4 mismatch if the net meterer gets a full credit, 8 cents a
5 kilowatt hour, when SCE&G is really only avoiding, let's say,
6 2 cents.
7 So that's something at the net metering proceeding
8 the Commission would have to decide: One, is this a concept
9 that we want to adopt, to encourage people to put generators
10 at their homes or their businesses and push power out onto the
11 grid, and then how much would they be paid for it.
12 Obviously there are safely issues involved in this
13 as well, because if a lineman is out there trying to work on
14 the lines to serve Irmo Insurance Agency, that lineman has got
15 to find a way to know whether Irmo Insurance Agency is pumping
16 power out so he doesn't get electrocuted when he goes up on
17 the pole to work on the transformer.
18 The second item you're going to be required to
19 consider are things called Smart Meters. Those are going to
20 be meters that tell the customer what either the price is for
21 the electricity at the moment, if they're on time-of-use
22 rates. It can be realtime pricing concepts, where they are
23 told this is what it's costing your utility at this moment to
24 produce the electricity that you're consuming, because, as you
25 know, as the demand for electricity grows, utilities start

1 using more and more expensive-to-run generators.
2 During times of low load, our nuclear plants and our
3 large coal plants are the plants being called upon to meet the
4 needs.
5 And this will tie back into economic dispatch. We
6 dispatch our plants in the order of the lowest variable cost
7 to serve the load. We start out with the nuclear plants,
8 which are real cheap to run, then the baseload coal, cycling
9 coal, combined cycle gas, combustion turbine gas.
10 As the price of the fuel and the price of
11 electricity increases, because the load is increasing, these
12 meters will tell the customer, All right, you crank up that
13 air conditioner on a hot July day, it's costing your utility 8
14 cents, 9 cents, 15 cents, 50 cents a kilowatt hour to serve
15 you and that's going to be reflected in your rates, so it's
16 giving the customer a price signal: Do you really want to run
17 the air conditioner, should you run a fan, or should you go to
18 a movie. But the idea is to give the customer the information
19 that they need to see the impact of their usage on the system
20 and the cost of the system.
21 Fossil generation efficiency improvements: One of
22 the things you're going to be required to consider is whether
23 utilities should be required to study and possibly invest
24 capital to make their coal units more efficient. You hear a
25 lot about heat rates. Heat rates is another buzz word in the

1 economic dispatch/efficiency dispatch concept. Heat rate is
2 simply a measure of the efficiency of the unit. This is going
3 to say, All right, let's study and determine whether SCE&G,
4 Duke Power, CP&L, should be required to spend some capital
5 dollars to make their coal plants more efficient, which will
6 bring down the cost of the fuel but will obviously drive up
7 the cost of the plant. It's a balancing act there. And fuel
8 diversity, with the high price of gas right now, everybody is
9 very conscious of the fact that we need to have a mix of fuels
10 in order to see to it that no one fuel is so heavily relied
11 upon that it drastically swings the energy cost and prices of
12 the utility.
13 I think you'll see, and as you well know from our
14 resource plans, that the three utilities that you regulate in
15 this state are very well diversified with a mix of nuclear,
16 coal, gas, hydro, so that should be an easy proceeding, but
17 that's one you'll also be required to conduct, that proceeding
18 to consider fuel diversity.
19 Any questions on those before we go to ones --
20 COMMISSIONER HAMILTON: What time
21 frame?
22 MR. ANTHONY: You have to initiate
23 the proceedings within -- let me do this
24 right -- within one year of the enactment
25 of the Energy Policy Act, which would be

1 by August 8th, 2006. You must -- well, I
2 left out one, too. You must decide
3 whether to conduct interconnection
4 standards for these small generators that
5 we were talking about with Irmo Insurance
6 Agency. You've got to initiate the
7 proceeding to determine whether you should
8 adopt rules regarding the connection of
9 these small generators to the system.
10 CHAIRMAN MITCHELL: If you didn't do
11 the net generating system, what's the
12 alternative, if you didn't go that route,
13 or is there an alternative?
14 MR. ANTHONY: If you don't do net
15 metering?
16 CHAIRMAN MITCHELL: Yes.
17 MR. ANTHONY: The customers are
18 just -- that's a great question.
19 Right now there are things called
20 qualifying facilities. Qualifying
21 facilities are generators that use solar,
22 wind, or they produce two types of thermal
23 energy, like electricity and steam. Those
24 entities, when the utilities purchase
25 power for them, and utilities are required

1 to buy power from them right now -- we
2 have to buy power from qualifying
3 facilities -- what we are required to pay
4 them are the avoided costs, and the state
5 commissions establish that rate.
6 So if the net metering applicant, the
7 person that is putting in a generator,
8 puts in a qualifying facility, let's say
9 it's solar, then even if you don't adopt
10 net metering, the utilities would be
11 required to pay that generator, Irmo
12 Insurance Agency, our avoided cost, which
13 the Commission would determine what the
14 rates are.
15 If Irmo Insurance Agency just put in
16 a diesel generator, which isn't a
17 qualified facility, and wants to sell
18 power to the utility, that's a FERC
19 jurisdictional transaction, that's a sale
20 of power for resale just like Calpine
21 selling power to us, and the FERC would
22 approve that rate.
23 Now, probably a market-based rate,
24 which means that FERC would not bless a
25 rate per se; it would be the result of the

1 utility and Irmo Insurance Agency agreeing
2 upon the rate, and if they can't agree,
3 then the FERC would resolve it.
4 CHAIRMAN MITCHELL: It sounds like
5 net metering would be a less
6 complicated -- am I following you right or
7 not?
8 MR. ANTHONY: It could or it couldn't
9 be. It all depends on the price that's
10 adopted. SCE&G may have --
11 CHAIRMAN MITCHELL: Yes.
12 MS. MORRISON: It could be more
13 complicated as far as how you're going to
14 account for the rates, you know, when
15 we're talking about avoided costs, but
16 also there are a lot of safety issues that
17 make it very complicated, because you're
18 talking about smaller entities kicking
19 power back into the system.
20 And Len mentioned earlier like a
21 lineman, you know, we know when we don't
22 have power pumping through a line and we
23 can send a crew out, if they've got to be
24 gloved or not, and we can deal with that.
25 But without having any real accountability

1 or not the same level of accountability
2 for these other generators when they pump
3 power back into the system, they are going
4 to be cautious about our guys, but not
5 quite as cautious as we're going to be,
6 about making sure that they're safe, so
7 there really are a lot of issues to
8 consider, and there may be ways to handle
9 them by creating regulations and making
10 sure that there is a safe system, but it
11 still could be a pretty complicated
12 process.
13 CHAIRMAN MITCHELL: Let me ask you
14 this: In an ice storm like we've had,
15 let's suppose the power goes off. Who is
16 responsible for getting them back on if
17 you have your own generators at each
18 place? Who is responsible for actually
19 the maintenance of that?
20 MR. ANTHONY: Maintenance of?
21 CHAIRMAN MITCHELL: Yes. If you each
22 have your own generators.
23 MR. ANTHONY: Well, the utility is
24 responsible to the infrastructure of the
25 lines all the way up to, in my example,

1 Irmo Insurance Agency, back up. That's
2 our job.
3 CHAIRMAN MITCHELL: When it comes
4 back out, that individual person would be?
5 MS. MORRISON: They wouldn't be
6 responsible for the lines.
7 MR. ANTHONY: All Irmo Insurance
8 Agency is doing is putting a generator
9 inside one of the offices, so to speak,
10 and it is wired into the circuit breaker
11 panel and it serves the loads of Irmo
12 Insurance Agency until the point that the
13 generation is greater than the needs of
14 Irmo, and then it goes through the circuit
15 breaker panel out into the transmission
16 network, so Irmo would not own any lines.
17 MS. MORRISON: It's the excess
18 electricity that's redistributed into our
19 system.
20 MR. ANTHONY: You raised another
21 great point on the safety issue in an ice
22 storm. We've got people out in the field.
23 We know that the line is deenergized from
24 our side. We don't know for sure that
25 Irmo is not generating and pumping power

1 back out.
2 CHAIRMAN MITCHELL: How in the world
3 are you going to monitor that if they're
4 on an individual --
5 MR. ANTHONY: That's one of the
6 interconnection issues that would have to
7 be addressed as to whether there would
8 have to be some kind of automatic switches
9 or how we would ensure that when those
10 people are out in the field that they are
11 not going to be electrocuted because power
12 is being pumped out from a source they had
13 no control over.
14 MS. MORRISON: That's the complicated
15 part. The question you had is how
16 complicated would that be. These are all
17 of the issues to be considered.
18 CHAIRMAN MITCHELL: Commissioner
19 Hamilton?
20 COMMISSIONER HAMILTON: If this thing
21 has moved so far already, Len, from your
22 simplified explanation of Mr. Moseley's
23 generator to where we get now, what we're
24 used to is standby generators for
25 industrial use, municipal use or medical

1 use, and this has kind of been, is this
2 thing getting to be generators, small
3 generators like that? It appears to me
4 it's getting to be a problem instead of a
5 solution because of the health and the
6 safety factor. What we're talking about
7 is enough reason to have a proceeding.
8 And I don't assume there's any way
9 these things could be curtailed, because I
10 know -- are you talking about generators
11 like those kind that every time it gets
12 ready to start talking about a hurricane
13 or an ice storm everybody runs to Wal-Mart
14 and gets?
15 MR. ANTHONY: That would probably not
16 be cost effective for someone to do
17 because the price of gasoline would not
18 make that cost effective to displace.
19 COMMISSIONER HAMILTON: Well, the
20 safety hazard with those is awful. Every
21 time people are usually killed from the
22 generators than from the storm.
23 MR. ANTHONY: That's the disconnect
24 issue which is the same whether we're
25 talking about one of the Wal-Mart

1 generators or a solar panel or a
2 cogeneration facility that we've got to
3 deal with if we allow the net metering.
4 As I understand it right now, with
5 the exception of where you're talking
6 about here where you had a storm and
7 people have got all of their 5KW Coleman
8 generators cranked up, feeding back
9 through the circuit breaker panel, most
10 standby generation, at a hospital, for
11 instance, they have a switch that senses
12 whether there is electricity coming in
13 from the grid. And if it senses
14 electricity from the grid, it shuts it
15 off.
16 And that goes back to the
17 interconnection standards that the
18 Commission would have to consider, is what
19 are the standards we're going to require
20 all of these people that are going to have
21 these on-premise generators to comply with
22 to ensure the safety of the system and
23 they don't burn down the lines.
24 If they put in a 1-megawatt generator
25 at some plant and they're pumping

1 electricity over the lines that were not
2 sized for that, that's another problem
3 that would have to be addressed.
4 COMMISSIONER FLEMING: But if this
5 Commission were to decide that net
6 metering was not, didn't balance out with
7 the other issues, then that would be a
8 moot point.
9 MR. ANTHONY: That would be the end
10 of it. It's entirely up to you whether
11 you adopt net metering.
12 COMMISSIONER HAMILTON: Net metering
13 would end it? It would take care of small
14 generator interconnections too?
15 COMMISSIONER FLEMING: If we decided
16 not to do it.
17 COMMISSIONER HAMILTON: In other
18 words, if we didn't do net metering, they
19 couldn't backfeed the power.
20 MR. ANTHONY: If you don't do net
21 metering, it's not going to spin the meter
22 backward and they're not going to get a
23 credit. It's not going to stop people
24 from putting in generators and continuing
25 to create the safety hazards; but, under

1 our service regulations, I'm sure Duke and
2 SCANA are like us, if we are aware of any
3 safety hazard, we can turn off service to
4 that customer just like that with no
5 notice, and I think that process has
6 worked pretty well over the years.
7 COMMISSIONER HAMILTON: Thank you.
8 MR. ANTHONY: And to beat this horse
9 a little bit more, as far as the
10 complication of it, net metering is
11 complicated for the reason we've been
12 discussing. The societal issues that are
13 involved in that are there's a
14 cross-subsidization that will occur
15 between customers that don't do net
16 metering and those that do, because these
17 people are going to get a credit unless we
18 just pay them our avoided cost, which is
19 the same thing that QF gives. If they get
20 paid more, anything more than that, the
21 rest of the ratepayers are going to
22 subsidize them to some extent.
23 And it's sort of a societal question:
24 Do we want to encourage people to put in
25 their own generators and be pushing power

1 out onto the grid under the theory that
2 that benefits society or not? The
3 interconnection stuff, as you've
4 identified, we have to deal with that, QFs
5 and these small generators.
6 CHAIRMAN MITCHELL: Another question
7 following up to that: Would that be all
8 or none? If you decide net metering, then
9 everybody, they wouldn't have a choice.
10 You'd have, everybody would have the
11 individual generators? Is that all or
12 nothing? Could you have some doing it and
13 some not?
14 MR. ANTHONY: You could put limits in
15 it. North Carolina just adopted a net
16 metering rule, and what they've said --
17 and, Ollie, keep me straight. I think
18 residential customers can put up to a
19 20-KW and business -- so residential could
20 put in a generator that is up to 20 KW and
21 business could put up to 100. But the
22 total amount that could be on any utility
23 system is .2 percent of the utility's peak
24 load, so they capped it at a very, what I
25 would consider a small amount of KW for

1 the very reasons you've been discussing.
2 And then they required any generator
3 that does this to be on time-of-use rates.
4 And the beauty of that is, if they're
5 pumping a kilowatt hour onto our system in
6 the middle of the night, they get a credit
7 that is an energy credit only, that
8 reflects our cost in the middle of the
9 night to produce a kilowatt hour.
10 If they pump it out in the middle of
11 the day, in July, they get an on-peak
12 time-of-use credit, again which is energy
13 only; there are no demand charges in
14 there.
15 So I think North Carolina -- I won't
16 say that. I'm not here to render Anthony
17 opinions.
18 That's just an example of someone who
19 the Commission did not --
20 CHAIRMAN MITCHELL: I thought it
21 might have been Anthony settlement.
22 Excuse me.
23 MR. ANTHONY: We'll try that later.
24 Back to answer your question about
25 time lines. Within one year of the

1 passage, which again one year would be
2 August 8th, '06, you must commence a
3 proceeding to consider Smart Metering.
4 You must conclude that investigation
5 within two years. And if you decide to
6 adopt Smart Metering, you must have that
7 finished within 18 months.
8 I have no idea why the Energy Policy
9 Act made it so complicated to come up with
10 these time lines, because you have to look
11 at about four different places in the bill
12 to find these time lines.
13 Within two years of the enactment,
14 you must commence proceedings to determine
15 whether utilities should be required to
16 provide net metering, implement the fuel
17 diversity initiative and implement a
18 ten-year plan to increase the efficiency
19 of the fossil plants.
20 The proceeding must be complete
21 within three years of the enactment, so
22 for those last three you have two years to
23 start the proceeding, three years to
24 finish it.
25 COMMISSIONER HAMILTON: Best get

1 started.
2 MR. ANTHONY: Nothing is ever simple,
3 is it?
4 COMMISSIONER HAMILTON: No.
5 BY MR. ANTHONY:
6 Slide 6 are items that involve state commissions but
7 are not requiring you to actually have proceedings. The first
8 one you are well aware of because, again, Commissioner
9 Hamilton is on the South Joint Board that has been established
10 to work with the FERC to study the concept of economic
11 dispatch.
12 You will hear in the industry some people speak of
13 efficient dispatch and economic dispatch. I will try to
14 objectively describe the difference between the two and then
15 relate it back to what we are talking about here.
16 Every utility in the nation has always used
17 security-constrained economic dispatch. What that means is
18 for the next day we look out and say what do we think the
19 electricity needs of our customers are going to be. Let's say
20 at CP&L we think the load is going to be 10,000 megawatts. We
21 then go look in our bag of tools, all the generators that are
22 within our control, and start stacking them up with the lowest
23 cost to operate to the highest cost to operate, and we then
24 say, All right, since the load is projected to be 10,000
25 megawatts, we're going to pick those generators from the

1 bottom, lowest cost, on up, that will be sufficient to meet
2 that need so that the operating cost to meet the need is as
3 low as possible.
4 The only exception is if there's a transmission
5 problem or a voltage support problem that says if you dispatch
6 those plants, because of where they are located, you would
7 cause reliability problems on the network, you might have to
8 dispatch a plant out of sequence. Every utility has always
9 done that, and it's dispatched on cost, the operating cost of
10 the unit.
11 There have been concerns raised in the industry that
12 there's all this merchant power out there, merchant capacity
13 that the utilities do not consider appropriately when they're
14 trying to decide which of these units to dispatch to meet the
15 load.
16 The comments that Progress Energy and Duke and SCE&G
17 filed with the Department of Energy in their parallel study of
18 economic dispatch, which is already well underway, explained
19 that all the utilities are more than happy to dispatch any
20 plant that's under our control. We can't dispatch a plant
21 that's not under our control, right? And we're happy to
22 dispatch them if they will tell us their cost so we'll know
23 where they are in the stack, and I believe what this study is
24 going to do is try to figure out is there a way to better
25 integrate these merchant plants into the dispatch decision.

1 And I will stop there because I'm not here to be an
2 advocate one way or the other.
3 There is discussion in the industry on efficient
4 dispatch, and there's a pretty big difference between economic
5 and efficient. Economic is saying what's the operating cost
6 of the unit. That's what you're looking at. What does it
7 cost to operate that unit. Efficient dispatch is looking to
8 see how efficient is that unit at transforming the type of
9 fuel that goes into it, into electricity. How well does it
10 take natural gas and turn into it electricity, how well does
11 it take coal and turn it into electricity.
12 In its purest form, if you follow efficient
13 dispatch, you might be shutting down a coal unit, which has a
14 variable cost of 2 1/2 to 3 cents, and replacing with it a
15 combined cycle natural gas unit that has an operating cost of
16 10 cents, because, from an efficiency perspective, the
17 combined cycle is more efficient. From the customers'
18 perspective they are going, What are you doing? The cheapest
19 thing is the coal, we don't care about the efficiency, we're
20 looking at the cost.
21 So just be mindful, as we walk through this economic
22 dispatch, that there is a difference between economic and
23 efficient dispatch, just to be sure we are adopting the one we
24 want to adopt. Are we going from pure efficiency, which might
25 produce higher costs, or are we going for economic?

1 Right now the FERC, in conjunction with a task force
2 populated by, there's four other federal entities involved, if
3 I can find my notes.
4 Ollie, go ahead and tell them
5 MR. FRAZIER: Department of Justice,
6 RUS, the Federal Trade Commission, and
7 then the fourth one is --
8 MR. ANTHONY: I found my notes now so
9 you better be right.
10 Department of Justice, NERC, FTC,
11 RUS. Maybe there is only four.
12 MR. FRAZIER: No, there's a fifth
13 one.
14 BY MR. ANTHONY:
15 DOE. There's a task force created, excuse me --
16 those federal agencies, they are going to work with NERUC, and
17 others, to study the current situation between retail and
18 wholesale competition and what actions could or couldn't be
19 taken to further encourage retail and wholesale competition.
20 The FERC has sent out a questionnaire to the state utilities,
21 and I'm sure the state commissions as well ask for their
22 position on various aspects of retail and wholesale
23 competition.
24 I think comments are due November 18th, if I
25 remember correctly on that. The utilities of this state are

1 working together because I think all of us have had some of
2 the same experiences with retail and wholesale competition.
3 The Department of Energy and NERUC are studying
4 energy efficiency programs. I haven't gotten terribly
5 involved in that because that is end user oriented,
6 demand-side management programs. We will be following that in
7 conjunction with our own renewed interest in demand-side
8 management conservation programs, such as duct-sealing, more
9 insulation in homes, higher efficiency appliances, because, as
10 you know, as natural gas prices increase, it not only is a
11 great impact to people that heat with gas, but we use gas to
12 produce electricity, and that's becoming a large portion of
13 our cost even though it's a small portion of our generation,
14 and we need to ensure that our customers are consuming
15 electricity as efficiently as they can by having thermally
16 improved premises: Insulation, ductwork, appliances, and so
17 forth.
18 The next slides are devoted towards the requirement
19 in the Energy Policy Act that FERC approve a new organization.
20 It's called the Energy Reliability Organization,
21 affectionately known as the ERO. This is, at least everyone
22 believes NERC is going to be become the ERO.
23 What's the ERO going to do? The ERO is going to
24 develop reliability standards that will apply to anybody using
25 the bulk power market, transmission and generation, to ensure

1 that the grid is reliable. No more Northeast blackouts.
2 That's not to say that the Northeast blackout was caused by a
3 lack of reliability standards or anything else, but what came
4 out of that was some beliefs, either rightly or wrongly, that
5 because the current standards are voluntarily, and NERC is a
6 voluntary organization, that it would be an improvement if the
7 standards were made mandatory and the FERC had oversight
8 authority over them, so FERC will approve any ERO and the ERO
9 will be responsible for developing the reliability standards
10 that everybody has to comply with, and there will be penalties
11 for failing to comply.
12 The ERO will identify reliability standards, float
13 it to the FERC, and the FERC can either bless it or kick it
14 back. The FERC doesn't get to establish them themselves; it
15 just gets to approve them or disapprove them.
16 There is a provision in the Energy Policy Act for
17 there to be a delegation of some of these responsibilities to
18 subregions, such as SERC, and we believe SERC will survive
19 because it's a large enough region that represents enough of
20 the diversity of the Southeast that the ERO will want to
21 delegate some authority to a subregional entity like SERC.
22 There is also an opportunity for advisory boards,
23 populated by state commissions, to give advice to the ERO on
24 what type of reliability standards should be adopted. And the
25 FERC is in the middle of that rulemaking right now. Initial

1 comments have been submitted by interested parties, and I
2 don't know off the top my head exactly when they have to have
3 that complete, but it is real soon.
4 As we point out on the next slide regarding EROs,
5 it's not entirely clear what will happen with the reliability
6 rules that are proposed by the ERO, and possibly adopted by
7 the FERC, are in conflict with either a FERC or a state
8 commission requirement; although there is the requirement with
9 the advisory board that the FERC consult with the states.
10 I'll refrain from editorial comments, trying to remain
11 objective.
12 I've covered pretty much everything on the next
13 page.
14 I think, Commissioner Fleming, that is an area that
15 the state commissions need to watch carefully. The way
16 transmission lines have historically been constructed in this
17 state are to ensure compliance with NERC and SERC and VACAR
18 requirements. I think we all use either single or double
19 contingency planning, where we consider the loss of a
20 generating unit and a transmission line, to determine whether
21 the lights will remain on, how do we plan the system so we can
22 stand losing a generation unit and a transmission line and the
23 lights still remain on. We'll have to be watching whether
24 these reliability standards will be adopted, via the ERO, to
25 change our planning standards.

1 And other planning standards: Just so you know how
2 historically we plan, we plan our system so that only one day
3 in every ten years is our system probably not going to be
4 capable of meeting the needs of our customers. Coming from a
5 telephone background, I think of that as a busy signal. We
6 plan our system so that only one day in every ten years will
7 anybody get a busy signal.
8 Contrast that with the telephone industry where they
9 size it so that busy signals are not all that uncommon because
10 it's not cost effective to build a telephone system so that
11 everybody who is on the system can make a phone call at the
12 same time. With electricity you don't have that luxury. You
13 have to have a system that can accommodate everybody's needs
14 whenever they put the need on the system. Fair enough?
15 The next slide is one of the favorites from a
16 lawyer's perspective, trying to figure out how this section is
17 going to be reconciled with some of the FERC's other
18 initiatives. As you know, with FERC Order 888, and the
19 establishment of open access transmission tariffs, there was a
20 tension created between utilities, like the ones in South
21 Carolina, using their transmission facilities primarily and
22 with first priority to meet the needs of their native load
23 customers, that is, those customers we have a statutory
24 obligation to serve under state law.
25 The FERC's Order 888 and open access transmission

1 tariffs adopted the idea that transmission lines are common
2 carrier facilities that should be available to anybody to use
3 on a "first come first serve" basis. There are some caveats
4 to that depending upon the length of the transmission service
5 requested, but that's the gist of it. Well, that is at odds,
6 "first come first serve," with "wait a minute, this is my
7 transmission facility I built to meet my native load customers
8 and I should be able to use it first to serve them."
9 The Energy Policy Act, in Section 1233, the way I
10 read it, says, if you are a load-serving entity, meaning
11 Santee Cooper, the electric co-ops, PMPA, Duke Power, CP&L, et
12 cetera, you have an obligation to serve some folks who do not
13 have any other choice as to where they go to get their power;
14 and you have transmission facilities or transmission rights,
15 you can use those transmission facilities and rights first and
16 foremost to meet the needs of those customer, and that is not
17 unduly discriminatory, because at one time FERC was saying
18 that was unduly discriminatory and we've got to stop that.
19 As you all well know, the states, particularly in
20 the Southeast, took a dim view of that concept. Well, now we
21 have this tension sort of renewed because we now have a
22 federal law that says we can use those facilities and, in
23 fact, we are supposed to use those facilities to meet the
24 needs of our retail customers first. They get first dibs on
25 them versus the FERC's open access transmission tariff

1 requirements and the concept of rollover rights -- and this is
2 why, from a lawyer's perspective, particularly because it's
3 pay-by-the-hour, I find this extraordinarily interesting
4 because we could debate it for probably much longer than it
5 probably is going to be debated.
6 Right now let's use a North Carolina example. North
7 Carolina Electric Membership Corporation has a contract with
8 CP&L, what's known as point-to-point transmission service, in
9 order for them to move power from Georgia into North Carolina
10 to meet the needs of NCEMC customers. When that contract is
11 up, within 60 days of expiring, NCEMC can tell CP&L, I'm going
12 to roll it over for another term, here I am. All they've got
13 to do is give us 60 days' notice and it's theirs for another
14 term.
15 Now, there's not enough transmission service to go
16 around in my example, so CP&L is going, Well, wait a minute, I
17 need that now to serve my customers, my load has grown to a
18 point where I need that back. It was okay for you to use it
19 when I didn't need it, but I need it back now. I think this
20 creates a pretty big tension because FERC is still saying
21 NCEMC is going to have rollover rights because they have
22 transmission rights on that point-to-point service that
23 they've been buying for, say, the last five years. Well, who
24 is going to win, because there is not enough transmission to
25 go around right now, so somebody's not going to get it.

1 And I see that as one of the issues that's going to
2 have to be worked out, because you can't build transmission
3 overnight. It takes years. And whether the concept of
4 rollover rights, in my example, are going to trump the
5 transmission owners' rights, because NCEMC is a load-serving
6 entity, and under the contract they've got transmission
7 rights, I think FERC would say that contract gives them
8 transmission rights, so you are pitting NCEMC transmission
9 rights, as a load-serving entity through its point-to-point
10 service contract with us, against CP&L's transmission rights,
11 because I own it and these are my customers, my retail
12 customers, they need it.
13 I don't know, some kind of arm-wrestling is going to
14 occur and somebody is going to lose, and that's why I think
15 it's going to be an interesting debate to follow as how the
16 FERC reconciles that.
17 Another thing that's interesting is FERC issued a
18 notice of inquiry back, I guess it was in August, might have
19 been early September, to see whether FERC Order 888, which is
20 the order that establishs the concept of open access
21 transmission tariffs, should be revised because there is still
22 discrimination occurring.
23 In that same notice they asked for comments on this
24 Section 1233 of the Energy Policy Act and asked how do we
25 reconcile this tension. I guess stay tuned, as we'll all be

1 filing our comments on that soon and you'll see how SERC
2 utilities are suggesting they settle that tension.
3 COMMISSIONER FLEMING: We're saying
4 what ifs. What if the energy users
5 decided, I mean the industry decided to
6 take advantage of the incentives to go to
7 a PR or regional organization, what would
8 happen? Would the RTO decide that?
9 MR. ANTHONY: Just off the cuff, I
10 don't think an RTO is going to resolve the
11 proper solution to this tension.
12 COMMISSIONER FLEMING: Right. But I
13 meant is that how it would work, though?
14 I mean, would they be the ones to make
15 that decision?
16 MR. ANTHONY: I don't think an RTO
17 would be empowered to decide how that
18 tension should be resolved. The RTOs,
19 what they call a day-one RTO is just the
20 RTO that is basically responsible for
21 planning transmission for the region under
22 its, I'll say, control; that's not the
23 best word. They would be making the
24 transmission plan that would meet the
25 needs of the load-serving entities and the

1 customers within that region, so they
2 would be saying, Well, this line ought to
3 be built, that interconnection ought to be
4 expanded, et cetera, and it would be
5 encouraging, or requiring, to the extent
6 it has that power, transmission lines to
7 be built.
8 I don't think they would -- they are
9 not going to be, in a day-one RTO, in a
10 position to influence who gets the
11 transmission.
12 In a day-two, what they call, RTO,
13 where there are markets created, where the
14 RTO is administering the market for
15 electricity the day ahead, and in some
16 cases more -- and you've heard of LMP
17 pricing. LMP pricing, locational marginal
18 pricing, is something, I think, only
19 Dr. Bill Hogan at Harvard understands
20 because he created it, but the concept
21 behind LMP pricing is the price to move
22 power from point, the price of power point
23 A and the price of power point B are going
24 to be different if there is congestion in
25 moving power between the two places. And

1 LPM is the mechanism to develop the price
2 to reflect that congestion.
3 The theory is as the price goes up,
4 it gives people price incentives to go
5 different places than they otherwise would
6 to get their electricity. A long-winded
7 answer to your question. Some people
8 might argue that a day-two RTO, by the way
9 it prices transmission congestion, would
10 resolve this tension economically, not
11 legally, but the price signals would be
12 such that NCEMC would decide, I don't want
13 to use that transmission path anymore,
14 it's going to cost too much, I'll go get
15 generation from another place.
16 COMMISSIONER FLEMING: If you go that
17 route, who will decide this?
18 MR. ANTHONY: The courts are going to
19 decide it.
20 COMMISSIONER FLEMING: The courts?
21 MR. ANTHONY: I'm sure we're all
22 headed straight to court.
23 COMMISSIONER FLEMING: So it wouldn't
24 be FERC, it would be the courts.
25 MR. ANTHONY: Well, it ultimately

1 will be decided by the courts, because in
2 my example, CP&L is going to say, no, you
3 can't have that service anymore, I need
4 that facility. The co-op says, no, siree
5 bob, I've got transmission rights too, I
6 get it. And we're off to court to see
7 what Section 1233 means as far as who has
8 first dibs on that transmission facility.
9 COMMISSIONER HAMILTON: What you're
10 saying, Len, is that the act is not as
11 clear as the slide. The slide says that
12 it belongs to whoever owns the
13 transmission. It's pretty clear there.
14 MS. MORRISON: I think what he's
15 saying is that under the act it says that,
16 but the problem is that outside of the act
17 there is competing legislation or
18 competing rules that hold to the contrary,
19 so the conflict doesn't reside within the
20 Energy Policy Act, it resides within
21 competing forms of legislation, so that's
22 where you've got to go in and have it
23 resolved.
24 COMMISSIONER HAMILTON: In other
25 words, the new energy policy is at odds

1 with the present statute.
2 MR. ANTHONY: Well, FERC says no.
3 FERC says all 1233 did was adopt their
4 standard practice. And if I was FERC -- I
5 shouldn't say that.
6 I think the Energy Policy Act did not
7 do us any favors in the way that they
8 worded some of this stuff, because it says
9 if you have transmission rights or
10 transmission facilities and you're a
11 load-serving entity, you have the right to
12 meet your native load requirements.
13 Well, in my example, NCEMC is a
14 load-serving entity. They have
15 transmission rights right now. The
16 question is, what additional rights do
17 they have to roll it over? FERC is going
18 to say, Well, they got it now, that's a
19 transmission right and they should have
20 the right to continue to roll over that
21 right to meet their native load needs.
22 I don't see that in the Energy Policy
23 Act, but FERC is going to say, I'm pretty
24 confident FERC is going to say that those
25 rollover rights are transmission rights

1 under the statute and they are entitled to
2 it. That's where --
3 MS. MORRISON: So then it's going to
4 be how do you divide up the pot? Do you
5 divide it by who was there first, who
6 needs it the most? And that's where
7 you're going to go to court, I guess, to
8 have it resolved.
9 COMMISSIONER HAMILTON: Capital
10 investment has no play?
11 MR. ANTHONY: Well, as FERC likes to
12 say, Everybody is somebody's native load.
13 So to say this is my native load and I
14 should have priority to serve them, that
15 doesn't mean anything because NCEMC could
16 say the same thing.
17 Some people have a widely different
18 view and say, Wait a minute, I built this
19 system to serve this load, I didn't build
20 it to move power from Georgia to Maine, so
21 why should you be able to use it, force me
22 to use it to the detriment of my retail
23 customers? And FERC says, Because you
24 have to look at this thing on a much more
25 national or at least an Eastern

1 interconnection basis, you have to quit
2 being so colloquial.
3 I think we heard that before
4 somewhere in the South. I can't remember.
5 CHAIRMAN MITCHELL: I know we have a
6 co-op representative here who is
7 listening, and I'm not sure if this fits
8 in. How do they play into this?
9 MR. ANTHONY: Well, if you're a
10 load-serving entity, like, let's use NCEMC
11 as an example. They don't have any
12 transmission so they are totally dependent
13 on others. Now, there's nothing to say
14 they can't build their own transmission.
15 That's another issue we can talk about.
16 There's no law that says NCEMC can't built
17 their own transmission. But right now
18 they don't have any, so in order for them
19 to move power, they have to rely upon
20 somebody else's transmission system. That
21 has worked out well over the years.
22 Santee Cooper -- James will have to
23 speak to whether they actually own
24 transmission, but with Central Co-Op, I
25 know they have transmission, so he can

1 speak to how -- I don't think you're FERC
2 jurisdiction with regard to this
3 provision.
4 MR. THORNE: No. Len has the floor,
5 he's explaining this very well, but, yeah,
6 we have some transmission.
7 I think the really important thing to
8 focus on, Mr. Chairman, is exactly what
9 Len said, there is tension here and we
10 really, some of this is irreconcilable I
11 think, in that somebody is somebody's
12 basic native load, and that's true.
13 If you have transmission rights, as
14 Len articulated, you want to continue
15 those transmission rights. If you are
16 Progress Energy and you had load growth,
17 you may well need those transmission,
18 additional transmission. Who wins?
19 FERC will decide initially, and I
20 think Len's guarantee is correct, it will
21 wind up in the court system because you
22 both need the same thing, you do need that
23 transmission capability.
24 MR. ANTHONY: In the notice of
25 inquiry in FERC Order 888, the questions

1 that are asked, one of the issues that
2 will be dealt with extensively is this
3 concept of the rollover rights and 60 days
4 notice, and that may be part of the
5 solution.
6 Right now, if I have a transmission
7 contract with CP&L, I can wait until
8 60 days before it's going to expire to
9 tell CP&L I want to renew it. That's not
10 nearly long enough for anybody to plan a
11 transmission system, so one solution may
12 be to require a transmission user to give
13 greater notice, say, two years. If you
14 want it renewed, give me two years' notice
15 so we have time to build the transmission
16 system in order to accommodate both the
17 utility's needs and that transmission
18 user's need.
19 But the 60-day notice is totally
20 unworkable in the long-run, if the
21 utilities that own the transmission system
22 are expected to plan it and build it to
23 accommodate everybody's need.
24 CHAIRMAN MITCHELL: And almost
25 wouldn't that be -- I don't know, you

1 might not can answer that -- the most
2 economic way to do it, the ones that can
3 build it? And I know you might not can
4 answer that, but looking at it from a pure
5 economic point of view.
6 MR. ANTHONY: We can 'T'-up the
7 issue. The issue of who pays for
8 transmission expansion is one that is
9 continuing to be debated, and the Energy
10 Policy Act does authorize what's called
11 "participant funding" when the FERC
12 decides it's appropriate. Participant
13 funding meaning a single entity that is
14 benefiting primarily from a new
15 transmission upgrade should have to pay
16 for it versus the cost of that facility
17 being spread to all transmission users.
18 There's two schools of thought: One
19 is but for -- we'll continue to pick on
20 Irmo Insurance Agency -- but for Irmo
21 Insurance Agency building this big
22 generator and hooking it up to the grid,
23 there would not be a need for
24 such-and-such transmission so, therefore,
25 Irmo should have to pay for it.

1 The other argument is, Wait a minute,
2 every expansion to the transmission
3 network enhances the network as a whole,
4 makes it more reliable and benefits the
5 whole transmission-using group, so they
6 should all pay for it.
7 So for as long as I've been doing
8 this, whether it was telephone or
9 electric, the argument is, do you charge
10 people based on cost causation: Who
11 caused me to actually have to build this.
12 Or, do you charge based on who uses it and
13 who benefits from it.
14 It's a societal, public -- and Gary
15 Walsh can probably pontificate on it as
16 well as anybody on under what
17 circumstances do you apply one.
18 I'll never forget Fred Walters
19 cross-examining an AT&T witness 15 years
20 ago. AT&T was saying, I shouldn't have to
21 pay any access charges because I didn't
22 cause the line, a telephone line from the
23 house to the Southern Bell central office
24 to be connected. I mean, they needed that
25 for local exchange service. I provide

1 long-distance, so that line was going to
2 be built whether I did any long-distance
3 or not.
4 And Fred made it clear, But you use
5 it. You can't complete your long-distance
6 call if you don't use that. But AT&T's
7 position was, I didn't cause it to be
8 built. Just like the driveway to a home
9 is necessary to connect to the roadway
10 system, you know, that line is necessary
11 to connect to the local exchange system.
12 That should be built into the basic
13 residential rate; it shouldn't be built
14 into my long-distance charges.
15 It's all about how you want to
16 resolve that tension between cost
17 causation and do you use it, and I'm glad
18 I'm not one of you all to try to figure
19 that one out.
20 COMMISSIONER FLEMING: So if you're a
21 merchant plant, your argument would be
22 AT&T's.
23 MR. ANTHONY: No, if you're a
24 merchant plant you're going to say,
25 Everybody benefits when I add my generator

1 to this mix and this transmission is
2 built, so the cost of transmission should
3 be spread to everybody.
4 COMMISSIONER FLEMING: Right. That's
5 what I -- okay, but I thought if the
6 line's already in place, it doesn't have
7 to be built, they are going to say they
8 don't have to add to anything to --
9 MR. ANTHONY: I think the whole idea
10 of de-pancaking transmission rates is
11 based upon the theory that transmission,
12 there is not a whole lot of variable cost,
13 it's all fixed, so then it's all just rate
14 design: How do you design a system to let
15 the transmission owner recover the fixed
16 costs of those facilities, and back to the
17 point the merchant facility would say,
18 Well, I'm not causing anything to be
19 built, assuming they didn't, I'm just
20 using what's already there, there is no
21 variable cost so you shouldn't be dinging
22 me for any kind of usage charge, I should
23 just have to pay the standard fixed rate
24 that society has agreed upon as
25 appropriate in this region.

1 Then you're into license plate,
2 postage stamp, and any other way -- I'll
3 quit there. That's not one of my -- I
4 have lots of opinions, but I'll keep them
5 to myself.
6 BY MR. ANTHONY:
7 Let me talk about the transmission incentives. I'll
8 go out of order a little bit since we're talking about
9 transmission. The Energy Policy Act charges FERC with
10 developing some incentives to encourage the construction of
11 transmission, as well as the turning of control, functional
12 control of transmission over to an RTO. The FERC has got to
13 do rulemakings to come up with how they are going to do that.
14 Not many ways to do it other than either shorten the
15 depreciable life of the plant and give you your cost recovery,
16 or increase the return that you're entitled to earn on it.
17 Time will tell whether that has any real impact, because, as
18 you know, in this state transmission lines are built whenever
19 NERC and SERC requirements say they have to be built to keep
20 the lights on. Whether there are other requirements that
21 should be factored into when a transmission line is built,
22 that will fall out of this.
23 I'll touch on the national interest corridor issue
24 as well, while we're talking. The DOE is to do, I think
25 it's --

1 COMMISSIONER MOSELEY: Len, what page
2 are you on?
3 MR. ANTHONY: I skipped around on
4 you, Commissioner. Flip to page 11. This
5 is the FERC's new backstop on siting
6 authority I'm skipping to.
7 BY MR. ANTHONY:
8 The Department of Energy is charged with identifying
9 national interest transmission corridors that are congested.
10 I would suspect some places like in New York is where you
11 might find an area where, because New York City consumes a
12 whole lot of electricity but there is not a whole lot of
13 places to build a generating plant there, they are having to
14 bring power into the city remotely, and the transmission lines
15 serving New York, let's say, hypothetical, become overwhelmed
16 and lines need to be built.
17 What this is doing is saying, if for some reason the
18 New York Public Service Commission doesn't authorize a line to
19 be built in order to relieve that congestion, which is
20 extraordinarily important to the nation because it's affecting
21 New York City, or Washington, D.C. maybe, then if that
22 corridor is identified as a national interest, and congested,
23 FERC can then step in, if the state doesn't, and authorize the
24 construction of that line, and the applicant would be given
25 federal condemnation powers to see to it the line is built.

1 FERC is God in this.
2 MS. MORRISON: I think there is
3 something even as far as like if there had
4 been an EPA barrier, maybe a permitting
5 issue -- I think it's actually DOE, not
6 FERC -- that DOE can step in and say,
7 We'll handle granting that permit. They
8 could go so far as to, as I understand it,
9 to even override an EPA permitting denial
10 or permit denial, so it gives some pretty
11 strong authority.
12 MR. FRAZIER: If DOE recognizes
13 something as a national interest, and
14 first FERC leaves it to the states to see
15 if they can resolve the issue between the
16 two states going to run a piece of wire,
17 this piece of transmission wire, and if
18 the states can't resolve it, then FERC can
19 step in as a backstop and do condemnation
20 and everything else and force the line to
21 go through.
22 But at a point those three states,
23 there's something that deals where the
24 three states can get together and by an
25 act of Congress, they can go before

1 Congress and they can stop the whole thing
2 again, so the states can get back
3 involved.
4 BY MR. ANTHONY:
5 Let me flip back to slide 10 where we talk about
6 FERC's new authority over mergers. As we spoke earlier, PUHCA
7 has been repealed and in its place FERC has been given new
8 powers in several areas, one of which is to approve the
9 merger, any merger affecting an electric utility. And there
10 is no dollar threshold to that particular piece of it. Any
11 merger that involves a FERC-jurisdiction utility is subject to
12 approval by the FERC.
13 The Energy Policy Act grants FERC some new authority
14 with regard to the disposition, sale, lease, et cetera, of
15 generating facilities. Up until the Energy Policy Act, FERC
16 did not have any jurisdiciton over the sale or lease or other
17 disposition of just a generating facility. As long as there
18 were no transmission or transformation facilities associated
19 in the sale, FERC had no jurisdiction. It was purely a state
20 issue as to whether the certificate of the Robinson Coal
21 plant, and the plant, could be sold to a third party.
22 Well, the Energy Policy Act now gives FERC authority
23 over the sale of those assets if the asset has a market value
24 of $10 million or more. A brand new authority for the FERC.
25 The same thing is true with regard to the sale of

1 utilities securities as well as the sale of wholesale
2 contracts. So if Progress Energy, CP&L, has a wholesale
3 contract to sell power to Duke, and it has a value of
4 $10 million or more -- and the way FERC is going to evaluate
5 that is gross revenues, the remaining gross revenues will be
6 derived from that wholesale contract or $10 million or more --
7 then FERC has to approve the sale of that wholesale contract
8 to a third party.
9 The Energy Policy Act is fairly consistent in
10 several places, saying in all of these situations when the
11 FERC is evaluating whether to approve a transaction involving
12 a utility, it has to consider whether there is any
13 inappropriate cross-subsidization of the utility's affiliates
14 resulting from the transaction; and the FERC is doing a
15 rulemaking, both dealing with mergers as well as the PUHCA
16 repeal, which is asking for comments on how do we know when a
17 transaction is causing inappropriate cross-subsidization of
18 utility affiliates.
19 Let me circle back because I think I skipped PUHCA.
20 Did I skip PUHCA? While I'm on that topic, the two most
21 important pieces, I think, of the repeal of PUHCA and the new
22 power being granted to the FERC are, one, access to books and
23 records. They wanted to, the Energy Policy Act wanted to
24 ensure that state commissions and the FERC continued to have
25 access to all registered holding company books and records.

1 But two other things pop out of that. One is if a
2 state -- let me back up. In a utility-holding company
3 structure there are often service companies. The service
4 companies are for -- for instance, I'm employed by Progress
5 Energy Service Company, which is where legal, tax, HR,
6 financial, shareholder relations, IT, all of those central,
7 those functions that are needed to support the whole
8 organization, we're in one place.
9 We have to decide how you allocate those costs out
10 between all of the other sister companies and the holding
11 company structure. Historically, they have been allocated at
12 cost. That's the SEC's standards for how those costs are
13 allocated.
14 The Energy Policy Act, with regard to PUHCA, does
15 two things: One, it leaves it up to FERC to decide are those
16 costs going to be continued to be allocated at cost or some
17 other method, and FERC is asking in its request for comments
18 on that rule, whether it should move to the lower of cost, or
19 market, for how those costs are allocated.
20 In other words, as a lawyer, the legal costs, will
21 the costs allocated by the service company to the utility be
22 simply actual costs, my salary, benefits, and whatever,
23 properly allocated amongst all the sister companies and
24 Progress Energy that I support, or will they be allocated to
25 the utility based on the lower of actual costs or the market

1 value of my services.
2 Now, since I am so highly trained and so forth, it's
3 obviously cheaper to do it at cost for me, but that will be an
4 issue that the FERC is going to debate as to whether it should
5 move to lower cost, or market.
6 That is an issue that, I think, at least looking at
7 NARUC'S comments and Progress Energy's, we are at odds. They
8 propose moving to lower cost, or market; we propose to leave
9 it at cost for the reasons that are articulated in our
10 filings, for reasons NARUC articulated in theirs.
11 Another issue is the Energy Policy Act grants to
12 FERC the power -- upon the request of the state or upon the
13 request of the utility, FERC apparently is given the authority
14 to decide how costs should be allocated between jurisdictions.
15 So if you had the North Carolina Commission decide that
16 service company costs should be allowed Methodology A, South
17 Carolina decided Methodology B, and they were significantly
18 different, then the FERC can step in in that holding company
19 situation and say, I declare that the method should be 'D,'
20 and ye all shall comply with it. I would suspect that would
21 produce a little litigation as well as time goes by.
22 Nuclear, everybody's favorite topic of the day. The
23 Energy Policy Act does provide significant incentives to
24 construct nuclear plants. The first 6,000 megawatts of
25 nuclear plants constructed will get a 1.8-cent credit per

1 kilowatt hour produced.
2 The Price Anderson Act was extended for another
3 20 years. That is the federal law that basically provides
4 liability insurance to the nuclear industry in case of an
5 accident.
6 There are loan guarantees for "early afters" in the
7 nuclear industry. Basically the federal government will
8 guarantee up to 80 percent of the project costs, so that
9 lowers the cost of financing the plant if you've got a federal
10 entity guaranteeing the loan.
11 And then finally there are indemnification
12 provisions in the act in the event that federal or state
13 permitting causes delays in the construction of the plant. I
14 think this applies to the first three plants. It's 100
15 percent reimbursement for costs incurred due to permitting
16 delays, and then for the next three plants, I believe, Ollie?
17 MR. FRAZIER: It's the first two
18 plants and the next four plants are
19 50 percent.
20 MR. ANTHONY: Are you sure it's two
21 and four?
22 MR. FRAZIER: But it's a total of
23 six.
24 MR. ANTHONY: Total of six, we'll go
25 with Ollie --

1 MR. FRAZIER: It's Section 638.
2 BY MR. ANTHONY:
3 Whether that's enough to cause nuclear plants to be
4 constructed, along with the high price of gas, I think we're
5 all going to see that play out. A lot of utilities in the
6 Southeast have notified the NRC that we are looking at new
7 nuclear. The permitting process takes at least a couple of
8 years to complete, so the ground will not be broken until,
9 say, 2009, 2010, assuming they were actually going to be
10 constructed. Right now we're going to the permitting and
11 design process.
12 I have touched upon already, fairly thoroughly,
13 slide 13, which deals with the FERC Order, notice of inquiry
14 on FERC Order 888.
15 Fourteen is giving you some deadlines, as well as
16 15.
17 I'm looking at the numbers I have not addressed.
18 Let me talk about three more rulemakings and we'll be finished
19 except for questions.
20 As you know, FERC delegated to the states the
21 obligation to basically regulate qualifying facility rates and
22 terms and conditions of interconnection. Cogeneration
23 facilities are a type of QF. Cogenerators don't necessarily
24 use any type of renewable resource. They burn coal or gas to
25 make electricity, and they also make another form of energy,

1 often steam. And the idea was, in 1978, when PURPA was
2 passed, there is a lot of industries that need steam, means
3 they've got to have a boiler.
4 It's efficient then to allow that steam to also be
5 used to generate electricity and produce two useful forms of
6 thermal energy. Concern has arisen over the years that people
7 were abusing that privilege, that is, they were just flat out
8 building electric facilities and then producing a little bit
9 of steam and then claim it on the QF.
10 Well, the Energy Policy Act tightens up, and the
11 FERC has proposed a rulemaking to tighten up the requirements
12 of being a cogenerator. Also, the Energy Policy Act provides
13 that utilities are going to be relieved of their obligation to
14 buy power. Remember we talked about we have to buy power from
15 QFs, and then the state commission decides what we pay. The
16 Energy Policy Act says we can be relieved of that obligation
17 if the utility can show that the QFs had a market to sell
18 their power into. Basically if they are in an RTO, they would
19 probably be able to pass that requirement, although it's not,
20 the act doesn't say you have to have an RTO, but it says you
21 have to have a market available to the QF that is basically
22 like what they would see in an RTO.
23 So you've already seen two utilities come forward
24 and ask to be relieved of that responsibility. The FERC
25 denied it on procedural grounds, not because of the substance,

1 and we'll wait to see what comes of that. Also, the FERC is
2 going to be required -- but they haven't done it yet -- to
3 have a rule on guaranteeing utilities the opportunity to
4 recover their QF costs.
5 Two more recent rulemakings have come out. One is
6 market manipulation. About two years ago the FERC adopted six
7 market behavioral rules. Well, now, as a result of the Energy
8 Policy Act, they are going to adopt a new market manipulation
9 rule, which is basically patterned after the SEC's Rule
10 10(b)(5) which says: Thou shalt not defraud; thou shalt not
11 use deceit; thou shalt not make any material misrepresentation
12 or omit any material information when you are negotiating
13 electric deals.
14 That rulemaking is out there. They've issued a
15 policy statement describing how they are going to use their
16 new penalty authority. FERC has new penalty authority under
17 the Energy Policy Act. They can fine offenders up to a
18 million dollars a day, and the FERC basically said, We're
19 going to look at the character -- these are my words. The
20 FERC is going to look at the character of the company and your
21 behavior associated with the violation. If it looks like the
22 company had a good compliance program in place, that senior
23 management was committed to compliance, you self-discovered
24 it, you self-reported it, you took quick remedial actions,
25 this is the first violation, those are all things they are

1 going to consider.
2 If you are a repeat offender, you don't have a
3 compliance program, your senior management doesn't seem to be
4 committed to compliance, they are going to whack you. That's
5 the gist of the policy statement.
6 And the final one that they've come out with, unless
7 they've done something in the last couple of days, is not even
8 worth talking about. It deals with the due process rights
9 that targets of FERC audits will enjoy before a final order is
10 issued. That's really not of great impact to you all, so with
11 that and Patricia and Ollie and James, other thoughts or
12 questions?
13 CHAIRMAN MITCHELL: Commissioner
14 Fleming.
15 COMMISSIONER FLEMING: I have a
16 question on PUHCA repeal and the market
17 value. If an industry is bought at market
18 value, and it's in a regulated state, and
19 the market value is much higher than the
20 original cost, that the customers have
21 already paid for that, will that company
22 have the right to come back to ask for the
23 difference in the two costs from the
24 customer?
25 MR. ANTHONY: At the risk of being

1 fired, no, ma'am. This state would
2 continue to have the authority to
3 determine what the rate base is for
4 that -- let's say somebody bought CP&L at
5 a 500 percent premium. Compared to the
6 book value of our assets, no, our rates
7 would still continue to be calculated
8 under the state's laws, which say we are
9 allowed to recover our investment
10 depreciation.
11 We spend $100 on plant, put it in the
12 rate base, depreciate it over ten years,
13 that's ten dollars a year, and we get to
14 earn a return on that investment. That
15 would be the methodology that this
16 commission would continue to use.
17 That 100-dollar investment will not
18 go up to 500 and affect customers' rates.
19 Now, it's not to say that the
20 acquirer might say, Well, there's going to
21 be all these synergies and efficiencies
22 and these other wonderful benefits and so
23 you should let me recover some of that
24 premium I paid through rates because the
25 customers are going to get these savings

1 and efficiencies, and I think most states
2 have said, That's great, as soon as the
3 efficiencies show up, we'll let you
4 recover some of that premium that you
5 paid.
6 COMMISSIONER FLEMING: That question
7 just came up in our discussion.
8 CHAIRMAN MITCHELL: If we don't have
9 any other questions, I want to certainly
10 thank all of you for coming here today and
11 enlightening us and keeping us informed.
12 We're going to have to just grow through
13 this thing together, and we certainly
14 appreciate it and hope to have you back as
15 we work through it, and just thank you so
16 much.
17 Anyone else have comments?
18 (No response.)
19 CHAIRMAN MITCHELL: Thank you very
20 much.
21 MR. ANTHONY: Thank you.
22 (The ex parte briefing was concluded
23 at 11:47 a.m.)
24
25

1 CERTIFICATE OF REPORTER

2

3 I, Janet L. LeVeque, Registered Professional
4 Reporter and Notary Public for the State of South Carolina at
5 Large, do hereby certify that the foregoing transcript is a
6 true, accurate, and complete record.
7 I further certify that I am neither related to nor
8 counsel for any party to the cause pending or interested in
9 the events thereof.
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14 November 2, 2005
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18 Janet L. LeVeque
Notary Public,
19 State of South Carolina at Large.
My Commission expires
20 July 3, 2006.
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Allowable *Ex Parte* Communication Briefing
Carolina Power & Light Company, d/b/a Progress Energy Carolinas, Inc., Duke Power Company, and South Carolina Electric & Gas Company

Briefing regarding the portions of the Federal Energy Policy Act of 2005 that appear to be of the greatest interest to the Commission

Public Service Commission of South Carolina Hearing Room
Synergy Business Park
101 Executive Center Drive
Columbia, South Carolina 29210

Tuesday, November 1, 2005

(PLEASE PRINT)

NAME	ADDRESS	ORGANIZATION
Ollie Frazier	Charlotte NC	Duke Power
Len Anthony	Raleigh, NC	Progress Energy
Gwyn Voss	Florence SC	PEC
GARY WALSH	COLUMBIA, SC	PEC
James Spearman	Columbia	PSC
Wendy Cartledge	Columbia SC	ORS
James Thomas	" "	ESSC
Patricia Morris	"	SCE&G
Comm. Fleming	Columbia, SC	PSC
Comm. Hamilton	Columbia, SC	PSC
Chairman Mitchell	Columbia, SC	PSC
Comm. Moseley	Columbia, SC	PSC
Jocelyn Boyd	Columbia, SC	PSC
[illegible]	[illegible]	[illegible]

ALLOWABLE EX PARTE COMMUNICATION BRIEFING
CERTIFIED STATEMENT
(Attendee)

THIS CERTIFICATION IS TO:

- BE SIGNED BY **EACH** BRIEFING ATTENDEE **EXCEPT** COMMISSIONERS AND PUBLIC SERVICE COMMISSION EMPLOYEES, AND
- BE FILED WITH THE OFFICE OF REGULATORY STAFF [1441 MAIN STREET, COLUMBIA, SOUTH CAROLINA 29201] **WITHIN FORTY-EIGHT HOURS** OF THIS BRIEFING.

Name: Collie Frazier	Date of Meeting: Nov. 1 '05
Occupation: Mgr Regulatory Research	Matter: EPAct of 2005
Attending on behalf of/for: Duke Energy	Docket No.: N/A

By signing this Certification, I certify that:

1. No commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [§58-3-260(C)(6)(a)(iii)]

2. I have accurately summarized the discussions occurring during the briefing in full either in the space below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. [§58-3-260(C)(6)(a)(ii)]

I have reviewed the transcript of this presentation and it accurately depicts the presentation made to the commission.

3. I have attached copies of any written materials utilized, referenced, or distributed during the briefing. [§58-3-260(C)(6)(a)(ii)]

This concludes my Certified Statement.

Signature of Briefing Attendee

Date: 11/1/2025

ALLOWABLE EX PARTE COMMUNICATION BRIEFING
CERTIFIED STATEMENT
(Attendee)

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- BE FILED WITH THE OFFICE OF REGULATORY STAFF [1441 MAIN STREET, COLUMBIA, SOUTH CAROLINA 29201] **WITHIN FORTY-EIGHT HOURS** OF THIS BRIEFING.

Name: Len Anthony	Date of Meeting: November 1, 2005
Occupation: Attorney	Matter: Energy Policy Act of 2005
Attending on behalf of/for: Progress Energy Carolinas	Docket No.:

By signing this Certification, I certify that:

1. No commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [§58-3-260(C)(6)(a)(iii)]

2. I have accurately summarized the discussions occurring during the briefing in full either in the space below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. [§58-3-260(C)(6)(a)(ii)]

Transcript + materials have been provided

3. I have attached copies of any written materials utilized, referenced, or distributed during the briefing. [§58-3-260(C)(6)(a)(ii)]

This concludes my Certified Statement.

Signature of Briefing Attendee

Date: 11/1/05

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CERTIFIED STATEMENT
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Name: F Gwyn Voss	Date of Meeting: 11-5-
Occupation: Consultant	Matter: FEP Act
Attending on behalf of/for: PEC	Docket No.:

By signing this Certification, I certify that:

1. No commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [§58-3-260(C)(6)(a)(iii)]

2. I have accurately summarized the discussions occurring during the briefing in full either in the space below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. [§58-3-260(C)(6)(a)(ii)]

See transcript and handout

3. I have attached copies of any written materials utilized, referenced, or distributed during the briefing. [§58-3-260(C)(6)(a)(ii)]

This concludes my Certified Statement.

J Kuyn Voss
Signature of Briefing Attendee

Date: 11-1-5

ALLOWABLE EX PARTE COMMUNICATION BRIEFING
CERTIFIED STATEMENT
(Attendee)

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Name: GARY E. WALSH	Date of Meeting: 11-1-05
Occupation: CONSULTANT	Matter: ENERGY POLICY ACT
Attending on behalf of/for: PROGRESS ENERGY CAROLINAS	Docket No.: N/A

By signing this Certification, I certify that:

1. No commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [§58-3-260(C)(6)(a)(iii)]

2. I have accurately summarized the discussions occurring during the briefing in full either in the space below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. [§58-3-260(C)(6)(a)(ii)]

(1) Issues of the EPA that impact State Commissions (2) Repeals PUCHA 2-6-06 (3) Amends EPA of 1973 (4) Discussed + specific items of interest to SC Commission (5) Discussed use of Transmission facilities for Native load (6) Discussed Transmission in designated Congested areas and FERC's ability to come in and allow construction even though a state may have denied the action (7) Discussed additional authority given to FERC through the EPA. (8) Discussed incentives in EPA to encourage nuclear plants.

3. I have attached copies of any written materials utilized, referenced, or distributed during the briefing. [§58-3-260(C)(6)(a)(ii)]

This concludes my Certified Statement.

Signature of Briefing Attendee

Date: 11-1-05

ALLOWABLE EX PARTE COMMUNICATION BRIEFING
CERTIFIED STATEMENT
(Commissioner/Commission Employee)

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- BE FILED WITH THE OFFICE OF REGULATORY STAFF [1441 MAIN STREET, COLUMBIA, SOUTH CAROLINA 29201] **WITHIN FORTY-EIGHT HOURS** OF THIS BRIEFING.

Name: James E. Spearman	Date of Meeting: November 1, 2005
PSC Position Title: Executive Assistant & Senior Technical Advisor	Matter: Briefing on Energy Policy Act
	Docket No.:

By signing this Certification, I certify that:

1. No commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [S.C. Code Ann. §58-3-260(C)(6)(a)(iii)]

2. I have accurately summarized the discussions occurring during the briefing in full either in the space below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. [S.C. Code Ann. §58-3-260(C)(6)(a)(ii)]

See attachment

3. I have attached copies of any written materials utilized, referenced, or distributed during the briefing. [S.C. Code Ann. §58-3-260(C)(6)(a)(ii)]

4. I will comply with State law requiring me to grant to every other party or person requesting an allowable ex parte communication briefing on the same or similar matter that is or can reasonably be expected to become an issue in a proceeding, similar access and a reasonable opportunity to communicate, directly or indirectly, regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding under the provisions of subsection S.C. Code Ann. §58-3-260(C)(6). [S.C. Code Ann. §58-3-260(C)(6)(a)(iv)]

This concludes my Certified Statement.

James C. Spearman

Signature of South Carolina Public Service Commissioner or Commission Employee

Date: 11/1/05

ALLOWABLE EX PARTE COMMUNICATION BRIEFING
CERTIFIED STATEMENT
(Attendee)

THIS CERTIFICATION IS TO:

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- BE FILED WITH THE OFFICE OF REGULATORY STAFF [1441 MAIN STREET, COLUMBIA, SOUTH CAROLINA 29201] **WITHIN FORTY-EIGHT HOURS** OF THIS BRIEFING.

Name: Wendy B. Cartledge	Date of Meeting: November 1, 2005
Occupation: Attorney	Matter: Energy Policy Act of 2005
Attending on behalf of/for: Office of Regulatory Staff	Docket No.: ———

By signing this Certification, I certify that:

1. No commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [§58-3-260(C)(6)(a)(iii)]

2. I have accurately summarized the discussions occurring during the briefing in full either in the space below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. [§58-3-260(C)(6)(a)(ii)]

See attached transcripts and materials

3. I have attached copies of any written materials utilized, referenced, or distributed during the briefing. [§58-3-260(C)(6)(a)(ii)]

This concludes my Certified Statement.

Wendy B. Cartledge
Signature of Briefing Attendee

Date: November 1 2005

ALLOWABLE EX PARTE COMMUNICATION BRIEFING
CERTIFIED STATEMENT
(Attendee)

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- BE FILED WITH THE OFFICE OF REGULATORY STAFF [1441 MAIN STREET, COLUMBIA, SOUTH CAROLINA 29201] **WITHIN FORTY-EIGHT HOURS** OF THIS BRIEFING.

Name: James L. Thorne	Date of Meeting: 11/1/05
Occupation: attorney	Matter:
Attending on behalf of/for: Elec Co-ops of S.C.	Docket No.:

By signing this Certification, I certify that:

1. No commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [§58-3-260(C)(6)(a)(iii)]

2. I have accurately summarized the discussions occurring during the briefing in full either in the space below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. [§58-3-260(C)(6)(a)(ii)]

Presentation by JOUS to PSC about the 2005 federal energy act. The presentation was to "educate" the PSC on the act and the PSC's rights and duties thereunder.

3. I have attached copies of any written materials utilized, referenced, or distributed during the briefing. [§58-3-260(C)(6)(a)(ii)]

This concludes my Certified Statement.

James L. Thorne

Signature of Briefing Attendee

Date: 11/1/05

ALLOWABLE EX PARTE COMMUNICATION BRIEFING
CERTIFIED STATEMENT
(Attendee)

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- BE FILED WITH THE OFFICE OF REGULATORY STAFF [1441 MAIN STREET, COLUMBIA, SOUTH CAROLINA 29201] **WITHIN FORTY-EIGHT HOURS** OF THIS BRIEFING.

Name: Patricia Morrison	Date of Meeting: 11/1/05
Occupation: Attorney	Matter: E Policy Act 2005
Attending on behalf of/for: SCE&G	Docket No.:

By signing this Certification, I certify that:

1. No commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [§58-3-260(C)(6)(a)(iii)]

2. I have accurately summarized the discussions occurring during the briefing in full either in the space below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. [§58-3-260(C)(6)(a)(ii)]

See attached.

3. I have attached copies of any written materials utilized, referenced, or distributed during the briefing. [§58-3-260(C)(6)(a)(ii)]

This concludes my Certified Statement.

Signature of Briefing Attendee

Date: 11/1/05

ALLOWABLE EX PARTE COMMUNICATION BRIEFING
CERTIFIED STATEMENT
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- BE FILED WITH THE OFFICE OF REGULATORY STAFF [1441 MAIN STREET, COLUMBIA, SOUTH CAROLINA 29201] **WITHIN FORTY-EIGHT HOURS** OF THIS BRIEFING.

Name: Elizabeth Fleming	Date of Meeting: Nov. 1, 2005
PSC Position Title: Commissioner	Matter: Federal Energy Policy Act
	Docket No.:

By signing this Certification, I certify that:

1. No commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [S.C. Code Ann. §58-3-260(C)(6)(a)(iii)]

2. I have accurately summarized the discussions occurring during the briefing in full either in the space below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. [S.C. Code Ann. §58-3-260(C)(6)(a)(ii)]

See transcript and attachments

3. I have attached copies of any written materials utilized, referenced, or distributed during the briefing. [S.C. Code Ann. §58-3-260(C)(6)(a)(ii)]

4. I will comply with State law requiring me to grant to every other party or person requesting an allowable ex parte communication briefing on the same or similar matter that is or can reasonably be expected to become an issue in a proceeding, similar access and a reasonable opportunity to communicate, directly or indirectly, regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding under the provisions of subsection S.C. Code Ann. §58-3-260(C)(6). [S.C. Code Ann. §58-3-260(C)(6)(a)(iv)]

This concludes my Certified Statement.

Elizabeth B. Fleming

Signature of South Carolina Public Service Commissioner or Commission Employee

Date: 11·1·05

ALLOWABLE EX PARTE COMMUNICATION BRIEFING
CERTIFIED STATEMENT
(Commissioner/Commission Employee)

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Name: G. O'Neal Hamilton	Date of Meeting: Nov. 1, 2005
PSC Position Title: Commissioner	Matter: Federal Energy Policy Act
	Docket No.:

By signing this Certification, I certify that:

1. No commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [S.C. Code Ann. §58-3-260(C)(6)(a)(iii)]

2. I have accurately summarized the discussions occurring during the briefing in full either in the space below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. [S.C. Code Ann. §58-3-260(C)(6)(a)(ii)]

See transcript and attachments

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This concludes my Certified Statement.

Signature of South Carolina Public Service Commissioner or Commission Employee

Date: 11-1-05

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Name: Randy Mitchell	Date of Meeting: Nov. 1, 2005
PSC Position Title: Chairman	Matter: Federal Energy Policy Act
	Docket No.:

By signing this Certification, I certify that:

1. No commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [S.C. Code Ann. §58-3-260(C)(6)(a)(iii)]

2. I have accurately summarized the discussions occurring during the briefing in full either in the space below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. [S.C. Code Ann. §58-3-260(C)(6)(a)(ii)]

See transcript and attachments.

3. I have attached copies of any written materials utilized, referenced, or distributed during the briefing. [S.C. Code Ann. §58-3-260(C)(6)(a)(ii)]

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This concludes my Certified Statement.

Signature of South Carolina Public Service Commissioner or Commission Employee

Date: Nov. 1, 2005

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CERTIFIED STATEMENT
(Commissioner/Commission Employee)

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Name: Charles [illegible] Worley	Date of Meeting: 11-1-05
PSC Position Title: Commissioner [illegible]	Matter: Energy Policy Act of 2005
	Docket No.:

By signing this Certification, I certify that:

1. No commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [S.C. Code Ann. §58-3-260(C)(6)(a)(iii)]

2. I have accurately summarized the discussions occurring during the briefing in full either in the space below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. [S.C. Code Ann. §58-3-260(C)(6)(a)(ii)]

See transcript and attachments

3. I have attached copies of any written materials utilized, referenced, or distributed during the briefing. [S.C. Code Ann. §58-3-260(C)(6)(a)(ii)]

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This concludes my Certified Statement.

Signature of South Carolina Public Service Commissioner or Commission Employee

Date: 11-1-05

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- BE SIGNED AND COMPLETED BY **EACH** COMMISSIONER AND PUBLIC SERVICE COMMISSION EMPLOYEES ATTENDING THE BRIEFING, AND
- BE FILED WITH THE OFFICE OF REGULATORY STAFF [1441 MAIN STREET, COLUMBIA, SOUTH CAROLINA 29201] **WITHIN FORTY-EIGHT HOURS** OF THIS BRIEFING.

Name: Jocelyn Boyd	Date of Meeting: Nov. 1, 2005
PSC Position Title: Deputy Clerk	Matter: Federal Energy Policy Act
	Docket No.:

By signing this Certification, I certify that:

1. No commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [S.C. Code Ann. §58-3-260(C)(6)(a)(iii)]

2. I have accurately summarized the discussions occurring during the briefing in full either in the space below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. [S.C. Code Ann. §58-3-260(C)(6)(a)(ii)]

See transcript and attachments

3. I have attached copies of any written materials utilized, referenced, or distributed during the briefing. [S.C. Code Ann. §58-3-260(C)(6)(a)(ii)]

4. I will comply with State law requiring me to grant to every other party or person requesting an allowable ex parte communication briefing on the same or similar matter that is or can reasonably be expected to become an issue in a proceeding, similar access and a reasonable opportunity to communicate, directly or indirectly, regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding under the provisions of subsection S.C. Code Ann. §58-3-260(C)(6). [S.C. Code Ann. §58-3-260(C)(6)(a)(iv)]

This concludes my Certified Statement.

Signature of South Carolina Public Service Commissioner or Commission Employee

Date: 11/1/05

ALLOWABLE EX PARTE COMMUNICATION BRIEFING
CERTIFIED STATEMENT
(Attendee)

THIS CERTIFICATION IS TO:

- BE SIGNED BY **EACH** BRIEFING ATTENDEE **EXCEPT** COMMISSIONERS AND PUBLIC SERVICE COMMISSION EMPLOYEES, AND

- BE FILED WITH THE OFFICE OF REGULATORY STAFF [1441 MAIN STREET, COLUMBIA, SOUTH CAROLINA 29201] **WITHIN FORTY-EIGHT HOURS** OF THIS BRIEFING.

Name:	Date of Meeting:
Occupation:	Matter:
Attending on behalf of/for:	Docket No.:

By signing this Certification, I certify that:

1. No commitment, predetermination, or prediction of any Commissioner's action as to any ultimate or penultimate issue or any Commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any Commissioner or Commission employee as to any Commission action or Commission employee opinion or recommendation on any ultimate or penultimate issue. [§58-3-260(C)(6)(a)(iii)]

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3. I have attached copies of any written materials utilized, referenced, or distributed during the briefing. [§58-3-260(C)(6)(a)(ii)]

This concludes my Certified Statement.

_____

Signature of Briefing Attendee

Date: _____

ENERGY POLICY ACT OF 2005

- DOES MANY THINGS:
- CREATES TAX CREDITS AND OTHER INCENTIVES TO INCREASE END USER ENERGY EFFICIENCY
- PROVIDES TAX AND FINANCIAL INCENTIVES TO BUILD NUCLEAR AND CLEAN COAL GENERATORS
- CREATES ELECTRIC RELIABILITY ORGANIZATION

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ENERGY POLICY ACT OF 2005

- REQUIRES STATES TO CONSIDER IMPLEMENTING: NET METERING; INTERCONNECTION STANDARDS FOR CUSTOMER OWNED GENERATION; SMART METERING; A PLAN TO ENCOURAGE FUEL DIVERSITY; AND PLAN TO INCREASE FOSSIL FUEL GENERATION EFFICIENCY

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ENERGY POLICY ACT OF 2005

- REPEALS PUHCA AND GIVES FERC NEW POWERS OVER MERGERS, HOLDING COMPANY ACCOUNTING; CHANGES PURPA LAW REGARDING QUALIFYING FACILITIES
- REQUIRES FERC TO OFFER RATE INCENTIVES TO ENCOURAGE THE CONSTRUCTION OF TRANSMISSION AND FOR UTILITIES TO JOIN RTOS

ENERGY POLICY ACT OF 2005

- REQUIRES STUDIES OF ECONOMIC DISPATCH
- PROTECTS NATIVE LOAD CUSTOMERS' RIGHTS TO TRANSMISSION SERVICE
- GIVES FERC BACKSTOP TRANSMISSION SITING AUTHORITY FOR CONGESTED AREAS OF NATIONAL INTEREST
- REQUIRES TASK FORCE TO STUDY RETAIL AND WHOLESALE COMPETITION

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ENERGY POLICY ACT OF 2005

- SPECIFIC ITEMS OF INTEREST TO STATES
  - STATES MUST CONDUCT PROCEEDINGS TO CONSIDER IMPLEMENTING NET METERING, SMALL GENERATOR INTERCONNECTION; SMART METERS; FOSSIL GENERATION EFFICIENCY IMPROVEMENT; AND FUEL DIVERSITY

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ENERGY POLICY ACT OF 2005

- ITEMS INVOLVING STATE COMMISSIONS
  - FERC MUST PERFORM A STUDY ON SECURITY CONSTRAINED ECONOMIC DISPATCH IN CONSULTATION WITH THE STATES
  - IMPORTANT TO UNDERSTAND SECURITY CONSTRAINED ECONOMIC DISPATCH
  - STUDY OF RETAIL AND WHOLESALE COMPETITION
  - DOE AND NARUC STUDY ENERGY EFFICIENCY PROGRAMS

228357

ENERGY POLICY ACT OF 2005

- PUHCA APPEAL
  - EFFECTIVE FEBRUARY 2006
  - FERC AND STATE REGULATORS ARE PERMITTED TO EXAMINE HOLDING COMPANY'S BOOKS AND RECORDS
  - AUTHORIZE THE ALLOCATION OF COSTS FOR NON-POWER GOODS OR SERVICES
  - PROTECT CUSTOMERS AGAINST IMPROPER CROSS-SUBSIDIZATION: RATEMAKING AUTHORITY

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MANDATORY ELECTRIC RELIABILITY STANDARDS

-FERC to approve an Electric Reliability Organization (ERO)

-Open to anyone, but NERC likely to be approved as ERO

-NERC has modified its structure to comply with statute's requirements for an ERO, such as independent board of trustees and a balanced stakeholder committee

-"Regional Entities" may be selected

SCE&G®
A SCANA COMPANY

Notice of Proposed Rulemaking (NOPR) issued on ERO rules (comments were filed October 7, 2005)

-Unclear as to what will happen if reliability rules "conflict" with a FERC requirement or a state commission requirement, although FERC is to consult with a state and ERO if there is a conflict regarding an ERO standard

SCE&G®
A SCANA COMPANY

DEVELOPMENT OF STANDARDS

-ERO to develop standards with input from "regional advisory bodies"

-Standards apply to all owners of the "bulk power system"

-ERO may delegate setting standards and enforcement to appropriate Regional Entities (if Independent and Balanced) -- who will these be?

-FERC must approve any proposed reliability standard or may remand/reject unacceptable standards

-Penalties

SCE&G®
A SCANA COMPANY

ENERGY POLICY ACT OF 2005

- LOAD SERVING ENTITIES WITH NATIVE LOAD RESPONSIBILITIES HAVE PRIORITY RIGHTS TO USE THEIR TRANSMISSION FACILITIES AND/OR TRANSMISSION RIGHTS TO MEET THEIR NATIVE LOAD CUSTOMERS' NEEDS

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ENERGY POLICY ACT OF 2005

- FERC'S NEW AUTHORITY OVER UTILITY MERGERS AND ASSET DISPOSITIONS
  - ALL MERGERS REQUIRE FERC APPROVAL
  - SALES OF UTILITY ASSETS (INCLUDING GENERATION ASSETS) WITH VALUE OVER $10M REQUIRE FERC APPROVAL
  - ANY TRANSACTION INVOLVING AN AFFILIATE REQUIRES A SHOWING OF NO CROSS SUBSIDIZATION

ENERGY POLICY ACT OF 2005

- FERC HAS NEW BACK STOP TRANSMISSION SITING AUTHORITY
  - ONCE THE DOE IDENTIFIES A CONGESTED NATIONAL INTEREST TRANSMISSION CORRIDOR, FERC CAN AUTHORIZE THE CONSTRUCTION OF A TRANSMISSION LINE TO RELIEVE THE CONGESTION IF A STATE CANNOT OR WILL NOT AUTHORIZE CONSTRUCTION. APPLICANT HAS CONDEMNATION POWERS.

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ENERGY POLICY ACT OF 2005

- TAX INCENTIVES AND FINANCIAL ASSURANCES TO ENCOURAGE THE CONSTRUCTION OF NUCLEAR PLANTS
  - 1.8 ¢/KWH CREDIT FOR 8 YEARS
  - FEDERAL INSURANCE FOR CONSTRUCTION DELAYS
  - FEDERAL GUARANTEES FOR UP TO 80% OF DEBT INCURRED TO BUILD

228357

ENERGY POLICY ACT OF 2005

- NOTICE OF INQUIRY REGARDING FERC ORDER NO. 888
  - RELATIONSHIP TO EPACT SECTION 1233
  - HOW TO RECONCILE SECTION 1233 GRANTING LSEs PRIORITY RIGHTS TO TRANSMISSION SERVICE TO SERVE NATIVE LOAD VS. REQUIREMENT THAT TRANSMISSION PROVIDERS PROVIDE NON-DISCRIMINATORY SERVICE

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FERC Activity

- By Dec. 2005
  - Establish rules to implement PUHCA 2005
    Docket No. RM05-32-000
- By Feb. 2006
  - Implement new reliability provisions
    Docket No. RM05-30-000 (ERO)
  - Revise criteria for qualifying facilities (QFs)
    Docket No. RM05-36-000
  - Merger Review Reform on Section 203
    Docket No. RM05-34-000

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FERC Activity

- By August 2006
  - Convene regional joint boards to study security constrained dispatch (SC is in South Board) Docket No. AD05-13-000
    - DOE is producing a study on Economic Dispatch for Congress by Feb. 2005 and each year thereafter
  - Inter-agency Task Force to study competition within wholesale and retail markets for electric energy and submit report to Congress Docket No. AD05-17-000

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FERC Activity

- On 9-16-05 FERC issued this Notice of Inquiry seeking comments on how the OATT should be reformed to eliminate the potential for undue discrimination and preference in providing transmission service. Comments are due 11-22-05. (Order 888 Reform) Docket No. RM05-25-000
- FERC has issued NOPRs regarding: PUHCA repeal; mergers; PURPA; ERO; market manipulation; and audit challenge process

The time is now to build new S. C. nuclear plants

August 31, 2005, The Index Journal, Greenwood, SC

It has been years since anyone even thought about building a new plant to produce nuclear energy for consumers. However, now that oil prices are so high and are sure to make heating bills go up this winter, nuclear energy is getting much more attention.

It's encouraging that state-owned Santee-Cooper and energy company SCANA, the company that owns S. C. Electric & Gas, want to jointly build a new nuclear plant to serve their South Carolina customers. Earlier Duke Power also announced it is interested in building another nuclear energy plant to serve its growing market.

It would take about 10 years to get a new plant on line, so time should not be wasted in approving the plans.

There's another factor, too. European nations – France in particular – have had great success with commercial nuclear power. Come to think of it, so has the U. S. With oil prices high and crude oil supplies being subject to a variety of negative influences, nuclear energy offers considerable relief. We'd be foolish not to exploit the opportunities we have.

Posted on Sun, Aug. 14, 2005
Columbia, SC

The State

Time to revisit opportunities of nuclear power

AMERICA'S ENERGY FUTURE is built on unsteady ground.

Petroleum and natural gas are both getting more expensive, as worldwide demand rises quickly. They also must increasingly be imported, often from unstable or unfriendly countries. These fuels, along with coal, release the gases that are believed to increase global warming and other environmental problems. With economic growth pushing America's demand for energy higher, the nation must ensure that it can meet future needs. To do that, we must end the logjam that has prevented the opening of any new nuclear power plants for more than two decades. South Carolina is well-positioned to be at the head of new nuclear expansion.

The rising price of a barrel of oil has been the headline-maker, but all major fuel costs are headed upward. Booming, industrializing economies such as China and India are straining energy supplies worldwide. Many of these fuels come from regimes that foster anti-American attitudes, or even attacks. Others are simply too politically unstable to be reliable, especially when tight supplies magnify any problems. America's energy future should not be totally dependent on calm in the Middle East or Central Asia.

Our energy solution also cannot depend on sending ever more carbon emissions into the atmosphere. If our dependence on fossil fuels for transportation and electricity continues to increase, climate change is likely to be demonstrated as much more than a theory. Nuclear power's ability to generate without worsening the greenhouse effect has caused some in the environmental movement to reverse their opposition recently.

• CONTAINING THE RISKS

Nuclear power uses uranium, which the United States can produce in abundance. It also, of course, requires abundant caution. Reactor designs must make a meltdown as unlikely as possible and, as a fail-safe, contain radiation in the worst case. While U.S. reactor production has been stalled, reactor designs have still been improving. New plans include gravity as a safety measure — in case of a major problem, water would flow down into the reaction chamber, cooling off the core. In short, new reactors will be better and safer than what has come before.

Still, the problem of nuclear reactor waste will continue. It must be contained safely for thousands of years. We still believe the best option is the repository at Yucca Mountain in Nevada, which seems certain to remain stable for millennia. Certainly, storage there is preferable to the current answer: keeping containers of waste next to hundreds of active reactors, many near populated areas. The environmental threat of carbon emissions far outweighs the smaller risks of a rational nuclear waste disposal policy.

Central storage of waste would address another risk of nuclear power: terrorism. New reactors and facility security would have to be designed to withstand attack. Reactors are reinforced structures by nature. Still, adequate planning is necessary to make nuclear plants, new and old, uninviting targets.

• SOUTH CAROLINA'S OPPORTUNITY

Many of these concerns also highlight why South Carolina offers a prime locale for a new nuclear power plant. The proposal is to build one inside the Savannah River Site. That location would provide intrinsically excellent security and community safety. SRS is one of six sites being considered for the first two new nuclear plants, which would be built by a consortium of power companies.

South Carolina should have an edge in this competition; the state already has seven active power reactors, supplying more than half of its electricity. Our congressional delegation is unanimous in support of the project. The project also would tie in nicely with the state's potential to take a lead in developing hydrogen as a power source of the future. The proposal includes a small research and teaching facility. Nuclear power

could offer a way, free of fossil fuels, to produce the needed hydrogen.

Nuclear power provides about one-fifth of America's electricity. Even with a crop of new reactors, it won't solve our energy problems alone. America needs a broad effort to find cleaner, more secure sources and to waste less of what we have. Meeting future challenges will require ambitious efforts and tough actions. Some, such as nuclear power, this White House favors; others, such as considerably higher vehicle efficiency standards, it opposes. But America needs a whole slate of better answers on energy. On balance, nuclear power's benefits make it one part of the solution.

Posted on Thu, Aug. 25, 2005

The State Newspaper, Columbia, SC

Two S.C. utilities may go nuclear

Santee Cooper, SCANA might build plant to meet future energy demand

By BEN WERNERand JAMES D. McWILLIAMS

Staff Writers

SCANA Corp. and Santee Cooper said Wednesday they may build a new nuclear power plant to meet future energy needs while fighting rising fuel costs.

The utilities, which together run the V.C. Summer nuclear plant in Fairfield County, said they can produce enough electricity to power their regions for years to come. But anticipated population growth means that may not true in a decade, roughly the time it takes to bring a new plant online.

S.C. Electric & Gas, SCANA's chief subsidiary that services the Midlands and beyond, is operating with a reserve capacity of between 12 percent and 14 percent, said Robin Montgomery, a SCANA spokesman. That means the utility's ability to give customers the power they need has not been maxed out.

"We don't have to rush anything," he said.

Santee Cooper has a similar cushion, but the coastal population served by the state-run utility is growing very fast, said Laura Varn Santee Cooper spokeswoman. The utility services Berkeley, Georgetown and Horry counties, as well as electric cooperative statewide.

"We are not sitting around with buckets and buckets of extra electricity," she said.

Meanwhile, rising fuel costs are taking larger and larger bites out of the bottom lines of both utilities.

Six months into 2005, publicly traded SCANA reported spending more than $265.5 million on fuel — nearly a 25 percent jump from the $215.5 million spent during the same time last year.

Fuel is half of Santee Cooper expenses and those costs have soared lately, Varn said.

"Oil costs are up about 300 percent in the last three years, and coal is up about 100 percent (during that time)," she said.

A statement issued Wednesday announced the two utilities are partnering to study building a new power plant. Nuclear was singled out in the announcement as one of the options being considered.

With seven existing nuclear reactors at four plants, South Carolina is the largest producer of such power in the Southeast. It ranks third among 31 states with nuclear capacity. More than half the power used in this state is from nuclear plants.

Officially, however, the utilities said they have agreed at this point only to study the potential of increasing capacity from various options, including plants fired by natural gas and coal.

The joint study will help fill in such details as a new plant's cost, funding and location. V.C. Summer, among the nation's youngest nuclear facilities, could be a site of new construction.

"Summer was built with the possibility of expansion in mind," Montgomery said.

Construction on the Summer plant started in 1971 and was completed in November 1982. By the time the first kilowatt was produced, more than $1.2 billion had been spent.

Wednesday's announcement echoed comments made by SCANA chief executive William Timmerman at the company's annual meeting in May.

In response to an investor's question, Timmerman said given the current energy environment, nuclear energy has to be considered.

"If you asked me that two years ago, I'd say not on my watch," Timmerman told the gathering.

Still, while SCANA officials have been open about the potential of building another nuclear plant for months, Santee Cooper officials sounded a bit more hesitant.

Santee Cooper spokeswoman Varn emphasized that the companies also are studying other ways to add power. The company recently finished a study of wind power and it is looking at burning wood chips.

Santee Cooper is possibly being politically cautious, after state legislators held recent hearings on controversial decisions by the company, said state Sen. Bill Mescher, R-Berkeley, a former president of Santee Cooper. But Mescher, who has previously criticized several Santee Cooper board members, said the caution may be unnecessary.

Mescher favors expanding nuclear-power capabilities in the state because it can help decrease America's dependence on expensive foreign oil. It can also reduce emissions of so-called "greenhouse gases" that may harm climates.

He said he also understands why Santee Cooper was interested in partnering with SCANA.

"Santee Cooper is too small to go nuclear by itself," Mescher said. "So, it has to go with someone else."

The Office of Regulatory Staff — the state agency that investigates utility issues — responded warmly to the idea.

"I think the nuclear option is one we can address now," said Dukes Scott, executive director of the agency. "It costs a lot less than coal and natural gas. It's an option we need to study."

SCE&G provides electricity to more than 529,000 customers in 24 counties in central, southern and southwestern parts of South Carolina. SCANA shares closed Wednesday at $41.16, down 57 cents.Santee Cooper serves 146,000 in the three counties plus another 650,000 through power provided to 20 electric cooperatives statewide.

Reach Werner at (803) 771-8509 or bwerner@thestate.com. Reach McWilliams at (803) 771-8308 or at jmcwilliams@thestate.com.

Duke to file application to build nuclear plant

By PAUL NOWELL
AP Business Writer
350 words
26 October 2005
17:15
Associated Press Newswires
English
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CHARLOTTE, N.C. (AP) - Duke Power Co. plans to ask federal regulators for a license to build and operate a new nuclear plant in the Carolinas, the company said Wednesday.

Duke Power, a unit of Charlotte-based Duke Energy Corp., hasn't made a final decision on where it will locate the plant, which will feature two Westinghouse Advanced Passive 1000 reactors. The company is conducting a study to help with the decision, Duke Power spokeswoman Rita Sipes said.

An application to build the plant is expected to be submitted to the U.S. Nuclear Regulatory Commission within the next 24-30 months, the company said.

A final decision on the location may not be made until the end of the year, officials said. If the utility wins approval and decides to go ahead with its plans, the nuclear plant would not go online before 2015, Duke said.

"Our employees have proven that nuclear generation can provide safe, reliable and cost-effective electricity for our customers," Brew Barron, Duke Power chief nuclear officer, said in a statement. "Preparing this application provides us the option to continue using a diverse fuel mix in the future."

A nuclear power plant hasn't opened in North Carolina since 1987, when what is now **Progress Energy** began operations at its Shearon Harris plant about 25 miles southwest of Raleigh, according to **Progress Energy** spokesman Rick Kimble.

In August, **Progress Energy** also notified the Nuclear Regulatory Commission it plans to apply for a license to build a nuclear plant at an undetermined site. Construction could begin within five years and the reactor could operate by 2015, officials of the Raleigh-based company said.

President Bush signed an energy bill this month offering millions of dollars in incentives for building nuclear reactors. **Progress Energy** operates four nuclear reactors in the Carolinas.

Duke Power, which serves 2 million customers in North Carolina and South Carolina, operates three nuclear generating stations, eight coal-fired stations, 31 hydroelectric stations and several combustion turbine units.

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Charlotte Observer

Duke's nuclear plans advance

Utility ready to apply for construction license; no site confirmed yet

STAN CHOE AND BRUCE HENDERSON
Staff Writers

Duke Power stepped closer to building the Carolinas' first nuclear power plant in decades on Wednesday, saying it's preparing to apply for a construction and operating license.

Duke emphasized it hasn't yet decided to build a nuclear plant. It wants to keep its options open among building nuclear, coal- or natural gas-fired plants.

But the $30 million license application process represents a significant step, industry analysts say. Duke says it could file an application with the Nuclear Regulatory Commission within 30 months. If the NRC approves, the two-reactor plant could go online by 2015.

Duke said it won't decide until year's end where a nuclear plant would go. The utility has targeted 14 undisclosed sites, said Brew Barron, the utility's chief nuclear officer. He would name only three where Duke already has nuclear plants: Lake Norman, Lake Wylie, S.C., and upstate South Carolina, although those aren't top candidates, a spokeswoman said.

If Duke follows through, it would be in the forefront of a nuclear resurgence.

Trying to break from past memories of Three Mile Island and Chernobyl, the industry touts safer, emission-free plant designs. Trade groups boast surveys that show improving public support. And the recently passed Energy Policy Act is packed with loan guarantees and insurance programs to spur more nuclear investment.

Some areas are dangling incentives to attract the plant, which would cost $4 billion to $6 billion and employ 800 to 1,000 people. Environmental groups still question plants' safety and how to dispose of nuclear wastes.

Duke says a new plant would need access to water, roads, transmission lines and railroads. Its territory stretches from Durham to the S.C.-Georgia border.

Two sites where Duke had previously considered building plants could be candidates again.

One is 2,000 acres of Duke-owned land on the Yadkin River, mostly in Davie County near Mocksville, about 45 miles northeast of Charlotte. Duke did geological work there but scrapped plans for a plant in the early 1980s. Duke won't say whether the site is on its list, but the county economic development chief believes it is.

"They've certainly kept it for some reason," said Terry Bralley, chairman of Davie's Economic Development Council. "Where we stand on that list, I don't know."

The other site is in Cherokee County, S.C., where county council members this month agreed to offer Duke tax breaks if it built the plant. Duke started but never finished a nuclear plant there in the early 1980s, later selling the site.

With the textile industry dying, "we've got a lot of people out of a job and some working out of the community," said county council Chairman Hoke Parris. "We hope they look at us very seriously."

The last U.S. reactor to be granted a construction license was Progress Energy's Harris plant near Raleigh, in

1978. The accident at Pennsylvania's Three Mile Island, the most serious in U.S. history, occurred the following year and galvanized public opposition to more plants.

Memories have faded, but anti-nuclear groups say time hasn't softened their opposition. "We're already working on it," said Lou Zeller of the Blue Ridge Environmental Defense League.

Environmentalists argue the new proposals wouldn't be economically viable if not for incentives included in this year's energy bill.

Most advocates favor development of alternative energies such as solar and wind power.

"We have a lot more options out there than pulverized coal and nuclear plants," said Sara Barczak of the Southern Alliance for Clean Energy.

A Lengthy Process

• Preparing the application for a construction and operating license: 24-30 months.

• Picking a site: Expected this year.

• Application review by the Nuclear Regulatory Commission: Could take another 33 months.

• Construction: About 5 years.

How Nuclear Power Plant Impacts Upstate

Jill Schroder
WSPA News Channel 7
Wednesday, August 3, 2005

Duke Power says it will consider the shores of Lake Keowee as a potential site for a second nuclear power plant in the Upstate. It could bring hundreds of jobs to an area that needs the work. But what could that mean for the people who live near it?

Living so close to Lake Keowee gives Barbara Blakely a lot of options in keeping her family entertained.

"I bring my grandkids for a day out. We picnic and they get in the water and have a fun day," says Barbara.

She thinks about the Oconee Nuclear Station being nearby but she never worries about it.

"I think they keep pretty good safety checks and security around it," says Barbara.

Without any major safety or environmental mishaps since it opened more than three decades ago, Barbara thinks the benefits outweigh the drawbacks.

"It put a lot of money into this community with good paying jobs. If it wasn't here, I think we'd be in bad shape as far as the economy goes," explains Barbara.

Dorian McIntire used to work in the nuclear power program for the Navy. He sees no harm in being so close to the nuclear plant and believes it's safe enough for his kids. In fact, he even welcomes the possibility of having a second one nearby.

"I think it would be great. I think it would lower our costs even further," says Dorian as he watches his children play in the lake.

There are about 300 miles of shoreline around Lake Keowee. The Oconee Nuclear Station takes up about 300 acres but there's still a lot of property left over the company owns. According to Duke Power representatives, to even consider building a new nuclear facility, at least 1500 acres of land are needed as well as adequate water supply.

The Oconee Nuclear Station is the reason Lake Keowee was created giving Barbara's family and others a place to play.

A study done by the Nuclear Energy Institute shows that the Oconee Nuclear Station's economic impact in 2002 for Oconee, Anderson, Pickens and Greenville counties was almost $800 million. That includes all the money made from selling electricity. Right now there are currently 1300 employees at the energy plant. Duke Power representatives have not yet determined how many jobs could be created if a new facility is built.

FYI -- This Bob McGehee op-ed ran in the Sunday, June 19, edition of the Morning News (Florence, S.C.)

The real nuclear option is safe, clean source of energy

This nation is on the brink of an enormous opportunity for affordable energy and an economic boost – by taking a new look at nuclear power. The nuclear power industry has been building momentum over the past few years, thanks to superb plant performance, enlightened regulatory changes and a growing awareness of nuclear energy's role in improving the environment and energy security. Today, nuclear energy has captured the attention of leading policymakers, the investment community – and some of the world's top environmental leaders.

Our decision-makers in Washington clearly recognize that the United States needs policy guidance to develop a properly balanced energy portfolio. The volatility of gas, oil and coal prices and the need for greater energy security make this more important now than ever. The continued role nuclear energy must play in providing predictable, stable electricity costs is essential, and so is its role in keeping our air clean.

Progress Energy's nuclear power plants have consistently been ranked among the top nuclear plants in the country in terms of safety, performance and cost. The Robinson Nuclear Plant near Hartsville and the company's Brunswick Nuclear Plant in Southport, N.C., and the Harris Nuclear Plant near New Hill, N.C., combined to generate more than 44.6 percent of Progress Energy's electricity in the Carolinas in 2004. In April 2004, the Robinson Plant received approval by the Nuclear Regulatory Commission of a 20-year license renewal, which positions the Robinson Nuclear Plant to continue providing safe, reliable electricity for Progress Energy customers and economic benefits to the local community through July 2030.

One of the industry's biggest challenges, however, is licensing and building new nuclear power plants. When we built the present generation of nuclear power plants, we found too often that the rules shifted in the middle of the construction process, causing delays and significant cost overruns. Today, no company, or group of companies, can invest $1.5 billion and end up spending twice that amount because the licensing process didn't work. Nor can we spend $1.5 billion to complete a plant, only to find that it will never operate commercially. We're now testing the Nuclear Regulatory Commission's new licensing process to see if it will work as intended. Although we've encountered a couple of rough spots, we know that – this time – we are on the <u>right</u> road.

Though the industry is facing this and many other challenges, there is some encouragement. First, nuclear plants are proven performers with high levels of safety and reliability – and major financial firms have identified nuclear plants as good investments. Second, Americans are more concerned about environmental and energy matters than they were a few years ago, and a strong majority believes nuclear energy is "the fuel of the future." And third, there is bipartisan support for nuclear energy in Congress – and a growing recognition among environmental leadership of the role nuclear power can play in keeping our air clean and reducing emissions of greenhouse gases.

The industry has achieved outstanding levels of safety and reliability while keeping operating costs low. There is growing recognition of nuclear energy's environmental benefits and its role in providing new baseload generating capacity needed over the next half-century and beyond.

The timing is right to make the most of our opportunities.

Bob McGehee is Chairman and CEO of Progress Energy and vice chairman of the Nuclear Energy Institute (NEI). This article is taken from his recent keynote speech at NEI's Nuclear Energy Assembly.

Progress Daily – Aug. 29

Progress Energy takes first steps on license application for new nuclear plant

Progress Energy has informed the Nuclear Regulatory Commission (NRC) that the company potentially plans to submit a combined construction and operating license (COL) for a new nuclear power plant.

The notification to the NRC, made last week, also indicated that the company expects to select a potential site and reactor vendor by the end of this year.

The letter does not bind the company to take any action. Plans to build a new nuclear plant are still subject to change based on demand, fuel prices, security issues or many other factors.

The application for the combined construction and operating license could be filed in early 2008. If approved by the NRC, construction could begin as early as 2010 for a new plant to go on line around 2015.

Progress Energy is currently evaluating the best way to meet the growing energy needs of our customers. Based on projections, the company will need new baseload generation capacity in Florida by 2015 and in the Carolinas by 2017. Sending the notification to the NRC is a major step in the process necessary to obtain a license, if the company decides that a new nuclear unit is the best option.

"Planning for new baseload power is a lengthy process that we take seriously," said C. S. "Scotty" Hinnant, senior vice president and chief nuclear officer for Progress Energy. "We have made it clear that we will keep the option open to build new nuclear generation. Keeping a balanced generation mix ensures reliability and price stability for our customers, and affirms our commitment to the environment."

progress|net

Utility eyes new nuclear reactor

Print

8/30/2005

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Utility eyes new nuclear reactor
By John Murawski - The News & Observer
Published 08-30-05

Progress Energy said Monday that it expects to apply for a license to build a nuclear power plant, placing North Carolina at the forefront of the nation's nuclear revival.

The Raleigh-based utility notified the Nuclear Regulatory Commission last week that the company plans to pick a site for a new reactor this year. Progress Energy's top executive has said that a likely option would be to add a reactor at the Shearon Harris nuclear plant south of Raleigh.

On Aug. 8, President Bush signed a federal energy bill that offers hundreds of millions of dollars in incentives to the first utilities that build nuclear plants. Bush said the bill gave utilities motivation to start building nuclear plants again.

If the NRC grants the license, and if Progress Energy decides to build a reactor, construction could begin in five years, and the reactor could be operating by 2015. The company is among several utilities vying to commission the country's first new nuclear reactor in more than a quarter century.

"Nuclear is an option we need to give serious consideration," said Joe Donahue, Progress Energy's vice president for nuclear engineering and services. "We're a couple of years away from saying, 'Yes, we'll spend $1 billion or more to build a nuclear power plant.' But we've reached the point where we need to take certain steps so we can maintain the nuclear option."

Progress Energy officials won't decide whether to build a nuclear plant for about two years. But the company is now the latest of eight utilities, primarily in the fast-growing Southeast, that have disclosed plans to seek approval for a new reactor. Progress Energy and Duke Power in Charlotte are the only two that expect to name a site this year, according to the NRC.

"It is a validation of the optimism that the nuclear industry has of the economic viability of nuclear power," said Marilyn Kray, president of NuStart Energy, a group of 11 utilities and nuclear-plant manufacturers that plan to seek NRC licenses for two sites. NuStart members include Progress Energy and Duke.

Driven by bill
Environmental activists seized on the timing of the Progress Energy announcement as evidence of their belief that nuclear power is not economically feasible without government aid.

The energy bill includes $2 billion in risk insurance for regulatory and legal delays experienced by the first six new nuclear plants.

"What's going on here is being driven by Bush's energy bill," said Jim Warren, director of the N.C. Waste Awareness and Reduction Network, an organization opposed to nuclear power. "There's no way they could make nuclear pay without these subsidies."

If Progress Energy and Duke decided to build nuclear plants, Warren predicted, massive opposition would erupt when the utilities identified the sites. Duke serves 2.1 million customers, some in Durham and Chapel Hill.

Progress Energy's Shearon Harris site in Wake County is one of the nation's youngest nuclear plants. The site, 20 miles southwest of Raleigh, began generating electricity in 1987 and was the nation's last operating reactor to receive a construction permit from the NRC.

This year Progress Energy Chief Executive Robert B. McGehee cited this region's population growth and energy demands as strong arguments in favor of adding a reactor there.

"Here's where our load is, and here's where our growth is," McGehee said in an April interview. "Here's where we need electricity. We need it in the Triangle area."

Progress Energy could build a reactor anywhere in its service area in the Carolinas, where it serves 1.4 million customers, or in Florida, where it serves 1.5 million, Donahue said. Company officials will also consider coal and natural gas power plants.

Projects paralyzed

Building new reactors has not been politically feasible in this country since the partial meltdown at Three Mile Island in Pennsylvania in 1979 and the explosion at the Chernobyl plant in Ukraine in 1986.

The 1979 accident didn't result in any deaths or radioactive contamination, but it paralyzed the industry. In years after the accident, 44 utilities canceled plans to build reactors already approved by the NRC, many already under construction and backed by substantial investment.

But this year, nuclear energy has become more attractive for utilities amid soaring costs of fossil fuel and concerns about global warming. Uranium is seen as a cheap fuel that creates no air pollutants, by contrast with coal and natural gas.

Besides safety and environmental concerns, another big drawback to nuclear power is this country's lack of a permanent depository for radioactive waste.

Three factors influenced Progress Energy's timing in notifying the NRC last week, Donahue said:

- The need for new power plants to meet energy demand.

- A desire to get an early start on the approval process in case the company decides to build a nuclear plant.

- And the energy bill's generous loan guarantees, risk insurance and production credits.

"Obviously, you don't want to miss out on that," Donahue said. "It helps manage the financial risk."

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-100, SUB 83

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Investigation of Proposed	)	ORDER ADOPTING
Net Metering Rule	)	NET METERING

BY THE COMMISSION: On May 18, 2005, the North Carolina Sustainable Energy Association (NCSEA) filed a letter in the above-captioned docket requesting that the Utilities Commission resume this proceeding which had previously been continued by joint request of the NCSEA and other parties.

On June 2, 2005, the Commission issued an Order granting the NCSEA's request, reopening this proceeding, and establishing a schedule for parties to file briefs on the remaining legal/policy issues.

On August 5, 2005, briefs were filed by the NCSEA, the Public Staff, and the Attorney General. Also on August 5, 2005, a joint brief was filed by Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc. (Progress); Duke Power, a division of Duke Energy Corporation (Duke); and Virginia Electric and Power Company d/b/a Dominion North Carolina Power (Dominion; jointly, Utilities).

POSITIONS OF THE PARTIES

The commenters note that many of the issues raised at the beginning of this proceeding have now been addressed. Specifically, the recent adoption of small generator interconnection standards has resolved a number of technical issues. In addition, decisions by the Federal Energy Regulatory Commission (FERC) have dismissed the argument that net metering is preempted under the Public Utility Regulatory Policies Act of 1978 (PURPA).

The remaining issue, as succinctly stated by the Utilities, is: whether or not certain customers who own small generators behind the billing meter are entitled to a credit above the utility's energy credit. The Utilities argue that allowing a net metering customer to run the meter backwards during times of excess generation effectively compensates that customer at full retail prices for the excess electricity generated. This full retail rate "includes not only generation-related operating and fuel costs, but the fixed costs of poles, wires, generation assets, etc. and even operating costs such as billing and customer service." Allowing net metering, the Utilities argue, provides a subsidy to those customers at the expense of a utility's other customers.

The Public Staff identifies the issue similarly in its comments, stating that the still-outstanding concerns against net metering "include concerns about discrimination and

cross-subsidies because a net metering customer could impose demand and consume energy during on-peak periods, while generating during off-peak periods, would pay a utility nothing for standby service and transmission and distribution facilities, and could impose additional administrative costs and burdens." The Public Staff cites studies, however, that have found numerous benefits from net metering, including: a reduction in peak demand; lessening the consumption of fossil fuels; reducing pollution and avoiding environmental damage; reducing line losses and improving efficiency of the grid; and avoiding upgrades to transmission and distribution facilities. The Public Staff notes that a study conducted in Maryland concluded that the impact on both the utility and its customers is minimal when the net-metered systems are limited to a small percentage of utility peak load. The Public Staff believes that any program should be limited in terms of the types of generation included, the size of individual facilities, and the overall megawatts on a per utility basis. The Public Staff recommends size limits per generator of 10 kW for residential customers and 100 kW for non-residential customers. The Public Staff further recommends a per utility limit of 25 customers, or 0.2% of peak load, whichever is less. Lastly, the Public Staff recommends that any excess generation over summer and winter billing periods be granted to the utility as compensation for standby or other services, thus offsetting the costs being borne by other ratepayers.

The Attorney General in his brief also supports the adoption of "true" net metering. The Attorney General analogizes self-generation to other forms of conservation and argues that the Commission should not discourage such efforts by attaching additional charges to these customers' bills. The Attorney General further argues that the utility is fully compensated because the energy delivered to the grid by the net metering customer is sold by the utility at the full retail rate to a neighboring customer. The Attorney General acknowledges that some net metering customers may replace energy consumed on-peak with off-peak generation, but also argues that solar photovoltaic (PV) facilities, which generally provide on-peak generation, actually benefit the utility by reducing peak demand. Lastly, the Attorney General cities a number of environmental benefits that would be gained by the generation of additional electricity using renewable resources.

The NCSEA in its comments notes that 39 states and the District of Columbia have all adopted some form of net metering. While acknowledging that any excess generation placed on the utility grid results in a "credit" for the generator, the NCSEA analogizes net metering to adding a cup of water to a bucket for later use – "you may not get the exact water you put in, but you can measure out the same amount of water you put in." The NCSEA also notes that net metering allows a small generator to utilize all the electricity produced without having to bear the expense of installing and maintaining a battery system. The NCSEA further acknowledges that net metering customers may be thus subsidized by the utility's other customers, but argues that any such subsidy "would be extremely small." The NCSEA argues, however, that net metering provides a number of benefits to the utility, including simplified accounting for customer generators, reduction in transmission and distribution line losses, reduction in reactive power losses, reduction in the demand for spinning reserve capacity, increase in reliability, voltage support, and deferral of system upgrades. The NCSEA offered a revised model net metering rule for adoption by the Commission. The NCSEA recommends size limits per generator of 20 kW for residential customers and 100 kW for non-residential customers corresponding to the limits currently approved in the small generator interconnection docket. The NCSEA further

recommends a per utility limit of 1% of peak load and that excess generation credits be rolled over from month-to-month for 12 months, with payment at avoided cost rates at the end of the 12-month period.

DISCUSSION AND CONCLUSIONS

The Commission previously adopted small generator interconnection standards which allow a utility customer to interconnect and operate a renewable energy facility in parallel with an electric utility. Net metering refers to the billing arrangement whereby the customer-generator is billed according to the difference over a billing period between the amount of energy consumed by the customer at its premises and the amount of energy generated by the renewable energy facility. "True" net metering allows the customer-generator to receive a billing credit for excess generation delivered to the utility grid. Net metering proponents advocate the use of a single meter allowed to spin forward and backward to automatically credit the customer-generator for this excess generation.

The Commission notes that all parties concede that allowing net metering will result in the potential for subsidies for those customers. A number of other benefits, however, have been advanced that could potentially offset any such subsidies. On balance, recognizing the benefit of additional renewable electric generation in this state, the Commission concludes that this represents an appropriate next step forward and that Duke, Progress, and Dominion, therefore, should be required to allow "true" net metering with a single meter on a limited basis.

Net metering, therefore, shall be made available to a utility customer that owns and operates a solar PV, wind-powered, or biomass-fueled renewable energy facility without battery storage. The renewable energy facility may have a capacity of up to 20 kilowatts (kW) for a residential customer-generator and 100 kW for a non-residential customer-generator.

The renewable energy facility shall be interconnected and operated in parallel with an electric utility's distribution system. Each utility shall offer to make net metering available to customer-generators on a first-come, first-served basis in conjunction with its approved small generator interconnection standards up to an aggregate limit of 0.2% of the utility's North Carolina jurisdictional retail peak load for the previous year.

A customer-generator that desires to net meter shall be on, or switch to, a time-of-use demand rate schedule. If the electricity supplied by the utility exceeds the electricity delivered to the grid by the customer-generator during a monthly billing period, the customer-generator shall be billed for the net electricity supplied by the utility, including any demand or other charges under the applicable time-of-use demand rate schedule. If the electricity delivered to the grid by the customer-generator exceeds the electricity supplied by the utility during a monthly billing period, the customer-generator shall be billed for the applicable demand and other charges for that billing period and shall be credited for the excess kilowatt-hours generated during that billing period. The utility shall not charge the customer-generator any standby, capacity, metering, or other fees or charges other than those approved for all customers under the applicable time-of-use demand rate schedule. The kilowatt-hour credit, if any, shall be applied to the following

monthly billing period, but shall be reset to zero at the beginning of each summer and winter billing season as defined in the utility's tariff. Similarly, any renewable energy credits (REC), or green tags, associated with this excess generation shall also be granted to the utility when the excess generation credit balance is zeroed out.

The Commission's approval of net metering in this docket reasonably balances numerous factors while attempting to limit the potential for abuse. Net metering is specifically designed for owners of small-scale renewable generation installed for the customer's own use, not for sale to the utility. As such, a net metering customer-generator will not typically apply for a certificate of public convenience and necessity and cannot participate in NC GreenPower. The requirement that excess seasonal generation (and associated RECs) be granted to the utility will appropriately limit the size of individual facilities, yet allow a customer-generator to utilize the full output of its renewable energy facility.

Contrary to the NCSEA's water analogy, all electricity is not valued equally – on-peak generation is valued more highly than off-peak generation. Therefore, excess off-peak generation should be available only during other off-peak hours, not during on-peak hours. Limiting eligibility to renewable energy facilities that do not have battery storage and requiring that a customer be on, or switch to, a time-of-use demand rate schedule address these concerns raised about the potential mismatch of off-peak generation and on-peak consumption. In addition, a time-of-use demand rate schedule more appropriately compensates the utility for any standby capacity than does a time-of-use energy rate schedule. Lastly, by limiting the amount of generation per utility and the size of each eligible renewable energy facility, the Commission concludes that no limit is necessary on the number of net metering customers.

The Commission intends to continue to review the implementation and use of net metering. The utilities, therefore, will be required to file with the Commission annual reports indicating the numbers of net metering applicants and customer-generators, the aggregate capacity of net metered generation, the size and types of renewable energy facilities, the amounts of on-peak and off-peak generation credited and ultimately granted to the utility, and the reasons for any rejections or removals of customer-generators from net metering.

IT IS, THEREFORE, ORDERED as follows:

1. That Progress, Duke, and Dominion shall file in this docket no later than December 1, 2005, tariffs or riders to allow net metering as ordered herein to be effective on or before January 1, 2006;

2. That Progress, Duke, and Dominion shall file on or before December 1 of each year, beginning December 1, 2006, in Docket No. E-100, Sub 83A an annual report indicating the numbers of net metering applicants and customer-generators, the aggregate capacity of net metered generation, the size and types of renewable energy facilities, the amounts of on-peak and off-peak generation credited and ultimately granted to the utility, and the reasons for any rejections or removals of customer-generators from net metering;

3. That the PV riders allowed to become effective for Progress and Duke by Order dated August 4, 2000, shall be closed effective January 1, 2006, and timely notice of this decision provided to existing customers; and

4. That existing customers on the PV riders shall be transferred to a time-of-use demand rate schedule with net metering effective January 1, 2006, unless they notify their utility no later than December 15, 2005, of their desire to opt out.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of October, 2005.

NORTH CAROLINA UTILITIES COMMISSION

Patricia Swenson

Patricia Swenson, Deputy Clerk

Commissioner Howard N. Lee did not participate in this decision.

Ah101306.03

U.S. Department of Energy
Washington DC 20585

Thursday, September 01, 2005

Mr. David Owens
Executive Vice President Edison Electric Institute
701 Pennsylvania Avenue N.W
Washington DC 20004-2696

Dear Mr. Owens:

Section 1234 of the Energy Policy Act of 2005 requires the Department of Energy to conduct a study on the benefits of economic dispatch in the electricity industry. In particular, the law directs the Department to study:

> (1) the procedures currently used by electric utilities to perform economic dispatch;
> (2) possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for sale for the purpose of inclusion in economic dispatch; and
> (3) the potential benefits to residential, commercial and industrial electricity consumers nationally and in each state if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

The Act provides a definition of economic dispatch, and directs the Department to offer recommendations to Congress and the States for legislative or regulatory changes. This study must be completed in time for the Department to submit its report, with appropriate recommendations, to Congress and the states by November 7, 2005.

DOE's Office of Electricity Delivery and Energy Reliability has tasked Joe Eto (at the Lawrence Berkeley National Laboratory) and Alison Silverstein to perform this study. Because the tight schedule will not permit us to conduct fresh analysis of the topic, I have directed them to collect existing information and analysis about economic dispatch, and to draft a report drawing on that material. To that end, I understand that Alison Silverstein has spoken with you and that you have agreed to support this research by sharing this request with the members of your stakeholder organization and inviting them to share their views and information directly with us. The Department appreciates your support of this effort very much.

Attached is a short list of questions on how economic dispatch is now practiced, and how it might be changed in the future. We invite interested parties to prepare answers to these questions and send them **no later than September 21** to Economic.Dispatch@hq.doe.gov, including such studies, testimony from regulatory proceedings, or other materials that can help Joe and Alison understand the issues and the submitter's views and concerns.

We realize that this schedule allows little time for gathering and submitting this material, so we thank you and your members in advance for your understanding and timely assistance. The statute requires DOE to update this study every year, so it is likely that issues not fully addressed in this initial study will get more attention in the future.

If you have any questions about the study, please contact me at David.Meyer@hq.doe.gov or Alison Silverstein at alisonsilverstein@mac.com.

Sincerely,

David H. Meyer Acting Deputy Director
Office of Electricity Delivery and
Energy Reliability
U.S. Department of Energy

Energy Policy Act of 2005, Section 1234 Economic Dispatch Study

Questions for Stakeholders

Section 1234 of the Energy Policy Act defines economic dispatch as "the operation of generation facilities to produce energy at the lowest cost to reliably serve customers, recognizing any operational limits of generation and transmission facilities." With that definition in mind, please answer as many of the following questions as you wish, attaching supporting materials such as studies or testimony that was filed in state or federal regulatory proceedings to support your answer.

Please send your response by e-mail to Economic.Dispatch@hq.doe.gov **no later than September 21, 2005**. Be sure to include the name and phone number of an individual who can answer any questions that may arise about your comments. Thanks in advance for your assistance with this study.

Alison Silverstein alisonsilverstein@mac.com
Joe Eto jheto@lbl.gov

Questions

1) What are the procedures now used in your region for economic dispatch? Who is performing the dispatch (a utility, an ISO or RTO, or other) and over how large an area (geographic scope, MW load, MW generation resources, number of retail customers within the dispatch area)?

2) Is the Act's definition of economic dispatch (see above) appropriate? Over what geographic scale or area should economic dispatch be practiced? Besides cost and reliability, are there any other factors or considerations that should be considered in economic dispatch, and why?

3) How do economic dispatch procedures differ for different classes of generation, including utility-owned versus non-utility generation? Do actual operational practices differ from the formal procedures required under tariff or federal or state rules, or from the economic dispatch definition above? If there is a difference, please indicate what the difference is, how often this occurs, and its impacts upon non-utility generation and upon retail electricity users. If you have specific analyses or studies that document your position, please provide them.

4) What changes in economic dispatch procedures would lead to more non-utility generator dispatch? If you think that changes are needed to current economic dispatch procedures in your area to better enable economic dispatch participation by non-utility generators, please explain the changes you recommend.

5) If economic dispatch causes greater dispatch and use of non-utility generation, what effects might this have – on the grid, on the mix of energy and capacity available to retail customers, to energy prices and costs, to environmental emissions, or other impacts? How would this affect retail customers in particular states or nationwide? If you have specific analyses to support your position, please provide them to us.

6) Could there be any implications for grid reliability – positive or negative – from greater use of economic dispatch? If so, how should economic dispatch be modified or enhanced to protect reliability?

September 20, 2005

Mr. David H. Meyer
Acting Deputy Director
Office of Electricity Delivery and Energy Reliability
United States Department of Energy
Washington, DC 20585

Dear Mr. Meyer:

Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc. ("PEC") and Florida Power Corporation d/b/a Progress Energy Florida ("PEF") submit their response to your letter of September 1, 2005 requesting responses to six questions concerning economic dispatch procedures to be used by the Department of Energy in developing its study on the benefits of economic dispatch in the electricity industry. Progress Energy appreciates the opportunity to provide these comments and looks forward to participating in the performance of the study.

Yours very truly,

/s/

Len S. Anthony
Deputy General Counsel-Regulatory Affairs

LSA:mhm

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Responses to the DOE questions on economic dispatch

1) What are the procedures now used in your region for economic dispatch? Who is performing the dispatch (a utility, an ISO or RTO, or other) and over how large an area (geographic scope, MW load, MW generation resources, number of retail customers within the dispatch area)?

RESPONSE: Generation dispatch consists of two main activities 1) Unit commitment and 2) economic dispatch. Progress Energy utilizes a sophisticated unit commitment program to schedule the generation resources, including power purchases, that will be needed to meet its daily load obligation. In addition, Progress uses sophisticated energy management systems to perform the economic dispatch of generation in real time. The unit commitment program models operating characteristics of each purchase and plant. (Included in the modeling of each plant are the heat rates, fuel costs, start-up costs, minimum run times, emission limits and costs, etc.) The model then produces a merit order schedule for starting up and shutting down the plants and purchases that minimizes total operating costs over the period being considered. The economic dispatch energy management systems use incremental heat rates, incremental fuel prices and emission costs to dispatch all available on-line generating resources and power purchases to achieve the lowest possible production cost. This method of Economic Dispatch is described in the definitive textbook for power system operations "Economics of Electric Utility Power Generation by W. D. Marsh" and results in the lowest possible cost of energy for customers. After this "pure" economic dispatch is developed, reliability and other constraints are incorporated into the dispatch. If reliability or any other constraints are violated, the economic dispatch is modified such that all constraints are satisfied at the minimum increase in cost. This modified economic dispatch process is typically referred to as "constrained economic dispatch" or "security constrained economic dispatch" and is what is used in the actual dispatch of the Progress systems.

In addition, both PEC and PEF are subject to annual fuel cost recovery proceedings during which the North Carolina Utilities Commission, the Public Service Commission of South Carolina and the Florida Public Service Commission determine whether the utilities have taken all reasonable steps to minimize their fuel costs. One issue considered by the State Commissions in making this determination is whether the utilities dispatched their systems in the most economical manner reasonably possible giving due regard to reliability (including making power purchases to displace utility-owned generation) during the period under review.

Key statistics for our service territories include the following:

Progress Energy Carolinas performs economic dispatch from a central control center in Raleigh, North Carolina for its control areas which comprise much of the eastern half of the state of North Carolina, several counties around the city of

Asheville, NC, much of the northeast corner of South Carolina.

Progress Energy Florida performs economic dispatch from a central control area in St. Petersburg, Florida for its control area which comprises portions of western, central and northern Florida including the cities of St. Petersburg and Clearwater, as well as the area surrounding Orlando.

- Geographic scope
  - 20, 000+ square miles in Florida
  - 34,000+ square miles in the Carolinas
  - 54,000+ square miles
- MW load
  - 12,500 MW in the Carolinas
  - 10,131 MW in Florida
- MW generation
  - 13,407 MW in the Carolinas
  - 8,864 Mw in Florida
- Number of retail customers
  - 1.4 million in the Carolinas
  - 1.5 million in Florida

2) Is the Act's definition of economic dispatch (see above) appropriate? Over what geographic scale or area should economic dispatch be practiced? Besides cost and reliability, are there any other factors or considerations that should be considered in economic dispatch, and why?

RESPONSE: The definition of economic dispatch is appropriate for indicating the desired outcome. However, as written it more accurately describes what is typically referred to as security constrained economic dispatch. The control area is the appropriate geographic area over which economic dispatch should be conducted. Costs and reliability are the primary considerations for economic dispatch; however "economic dispatch" must also consider environmental

constraints, fuel inventory or delivery constraints, purchase and sales opportunities, low load stability risk, ramp requirements, weather conditions (such as approaching hurricanes or tornado threats) and conditions at a plant that might increase the risk of a unit trip (such as a recent return from a major overhaul or a boiler tube leak). These and other factors must be accounted for by the System Operator and can affect the economic dispatch.

3) Do procedures differ for different classes of generation, including utility-owned versus non-utility generation? Do actual operational practices differ from the formal procedures required under tariff or federal or state rules, or from the economic dispatch definition above? If there is a difference, please indicate what the difference is, how often this occurs, and its impacts upon non-utility generation and upon retail electricity users. If you have specific analyses or studies that document your position, please provide them.

RESPONSE: There are no basic differences in classes of generation for either utility or non-utility owned generation with the exception of PURPA required "must purchase" generation. These PURPA units are included in the economic dispatch in accordance with their PURPA requirements and contract conditions rather than on economic merit order. With some limited exceptions, utilities are obligated to purchase all of the energy delivered by these units rather than according to economic dispatch. These administratively developed costs often differ significantly from the real time energy costs used in the economic dispatch of other generation. With the exception of these PURPA generators, all utility-owned generators, non-utility generation under contract with the utility, and all resources purchased by the utility are dispatched to minimize the total system production cost within contractual and operational limitations that exist.

4) What changes in economic dispatch procedures would lead to more non-utility generator dispatch? If you think that changes are needed to current economic dispatch procedures in your area to better enable economic dispatch participation by non-utility generators, please explain the changes you recommend.

RESPONSE: No changes in current economic dispatch procedures by Progress are needed or appropriate. As discussed in response to question 3, all generation resources are economically dispatched to minimize the total system production cost. Purchase and sales opportunities are continually evaluated (in accordance with the provisions of each utility's OATT and wholesale rates as approved by FERC) for potential savings and any lower cost resources available are included in the economic dispatch. As a result, the Progress systems are already dispatched in the most economical manner consistent with maintaining reliability and other constraints (such as emissions limitations). Any mandated change in the current method of economic dispatch procedures would lead to higher customer energy costs, consumption of more expensive fuels, and potentially reduced reliability and greater emissions.

5) If economic dispatch causes greater dispatch and use of non-utility generation, what effects might this have – on the grid, on the mix of energy and capacity available to retail customers, to energy prices and costs, to environmental emissions, or other impacts? How would this affect retail customers in particular states or nationwide? If you have specific analyses to support your position, please provide them to us.

RESPONSE: In addition to the information provided in response to Item 3 and 4, it is important to emphasize that Progress considers all resources over which it has dispatch control when performing security constrained economic dispatch. Any IPP can be included in performing the economic dispatch function, provided the IPP: grants Progress the authority to dispatch the IPP's resource; and provides sufficient price/cost data to run the models and determine the least cost dispatch order. In addition Progress wishes to emphasize that it has hourly traders reviewing the market 24 hours a day 7 days a week for purchases to displace higher cost utility resources. The end result of this process is no different from that employed in Regional Transmission Organizations.

6) Could there be any implications for grid reliability – positive or negative – from greater use of economic dispatch? If so, how should economic dispatch be modified or enhanced to protect reliability?

RESPONSE: Progress already uses security constrained economic dispatch as discussed in response to the previous questions. It is therefore difficult to understand how there could be "greater use of economic dispatch". If "must take" PURPA purchases could instead be economically dispatched based on their actual costs, this might constitute greater use of economic dispatch but as it is PURPA "must take" requirements result in dispatch out of merit order.

Use of "pure" economic dispatch without recognition of constraints such as reliability, environmental cost and emission limitations, could result in higher customer energy costs, consumption of more expensive fuels, reduced reliability or greater emissions. As explained above, in order to protect reliability, after a "pure" economic dispatch is developed, reliability and other constraints must be incorporated in the actual dispatch such that all criteria are satisfied at the minimum increase in cost.

September 21, 2005

Mr. David H. Meyer
Acting Deputy Director
Office of Electricity Delivery and Energy Reliability
United States Department of Energy
Washington, DC 20585

Dear Mr. Meyer:

Duke Power, a Division of Duke Energy Corporation ("Duke") submit this response to your letter of September 1, 2005 requesting responses to six questions concerning economic dispatch procedures to be used by the Department of Energy in developing its study on the benefits of economic dispatch in the electricity industry. Duke Power appreciates the opportunity to provide these comments and looks forward to participating in the performance of the study.

Yours very truly,

/s/

Lara Simmons Nichols
Assistant General Counsel
Duke Energy

Responses to the DOE questions on economic dispatch

1) What are the procedures now used in your region for economic dispatch? Who is performing the dispatch (a utility, an ISO or RTO, or other) and over how large an area (geographic scope, MW load, MW generation resources, number of retail customers within the dispatch area)?

RESPONSE: Generation dispatch consists of two main activities 1) Unit commitment and 2) economic dispatch. Duke Power utilizes a sophisticated unit commitment program to schedule the generation resources, including power purchases, that will be needed to meet its daily load obligation. In addition, Duke uses sophisticated energy management systems to perform the economic dispatch of generation in real time. The unit commitment program models operating characteristics of each purchase and plant. (Included in the modeling of each plant are the heat rates, fuel costs, start-up costs, minimum run times, emission limits and costs, etc.) The model then produces a merit order schedule for starting up and shutting down the plants and purchases that minimizes total operating costs over the period being considered. The economic dispatch energy management systems use incremental heat rates, incremental fuel prices and emission costs to dispatch all available on-line generating resources and power purchases to achieve the lowest possible production cost. This method of Economic Dispatch is described in the definitive textbook for power system operations "Economics of Electric Utility Power Generation by W. D. Marsh" and results in the lowest possible cost of energy for customers. After this "pure" economic dispatch is developed, reliability and other constraints are incorporated into the dispatch. If reliability or any other constraints are violated, the economic dispatch is modified such that all constraints are satisfied at the minimum increase in cost. This modified economic dispatch process is typically referred to as "constrained economic dispatch" or "security constrained economic dispatch" and is what is used in the actual dispatch of the Duke Power systems.

In addition, Duke is subject to annual fuel cost recovery proceedings during which the North Carolina Utilities Commission and the Public Service Commission of South Carolina determine whether the utilities have taken all reasonable steps to minimize their fuel costs. One issue considered by the State Commissions in making this determination is whether the utilities dispatched their systems in the most economical manner reasonably possible giving due regard to reliability (including making power purchases to displace utility-owned generation) during the period under review.

Key statistics for our service territories include the following:

Duke Power performs economic dispatch for its control area which comprises much of central and western North Carolina and western South Carolina. As the balancing authority for these areas, all generation owned, operated, and contracted by Duke Power are scheduled and dispatched from a central control

center in Charlotte, NC.

- Geographic scope – 22,000+ square miles
- MW load – 18,687 MW
- MW generation – 19,900 MW
- Number of retail customers – 2.2 million

2) Is the Act's definition of economic dispatch (see above) appropriate? Over what geographic scale or area should economic dispatch be practiced? Besides cost and reliability, are there any other factors or considerations that should be considered in economic dispatch, and why?

RESPONSE: The definition of economic dispatch is appropriate for indicating the desired outcome. However, as written it more accurately describes what is typically referred to as security constrained economic dispatch. The control area is the appropriate geographic area over which economic dispatch should be conducted. Costs and reliability are the primary considerations for economic dispatch; however "economic dispatch" must also consider environmental constraints, fuel inventory or delivery constraints, purchase and sales opportunities, low load stability risk, ramp requirements, weather conditions (such as approaching hurricanes or tornado threats) and conditions at a plant that might increase the risk of a unit trip (such as a recent return from a major overhaul or a boiler tube leak). These and other factors must be accounted for by the System Operator and can affect the economic dispatch.

3) Do procedures differ for different classes of generation, including utility-owned versus non-utility generation? Do actual operational practices differ from the formal procedures required under tariff or federal or state rules, or from the economic dispatch definition above? If there is a difference, please indicate what the difference is, how often this occurs, and its impacts upon non-utility generation and upon retail electricity users. If you have specific analyses or studies that document your position, please provide them.

RESPONSE: There are no basic differences in classes of generation for either utility or non-utility owned generation with the exception of PURPA required "must purchase" generation. These PURPA units are included in the economic dispatch in accordance with their PURPA requirements and contract conditions

rather than on economic merit order. With some limited exceptions, utilities are obligated to purchase all of the energy delivered by these units rather than according to economic dispatch. These administratively developed costs often differ significantly from the real time energy costs used in the economic dispatch of other generation. With the exception of these PURPA generators, all utility-owned generators, non-utility generation under contract with the utility, and all resources purchased by the utility are dispatched to minimize the total system production cost within contractual and operational limitations that exist.

4) What changes in economic dispatch procedures would lead to more non-utility generator dispatch? If you think that changes are needed to current economic dispatch procedures in your area to better enable economic dispatch participation by non-utility generators, please explain the changes you recommend.

RESPONSE: No changes in current economic dispatch procedures by Duke Power are needed or appropriate. As discussed in response to question 3, all generation resources are economically dispatched to minimize the total system production cost. Purchase and sales opportunities are continually evaluated (in accordance with the provisions of each utility's OATT and wholesale rates as approved by FERC) for potential savings and any lower cost resources available are included in the economic dispatch. As a result, the Duke Power system is already dispatched in the most economical manner consistent with maintaining reliability and other constraints (such as emissions limitations). Any mandated change in the current method of economic dispatch procedures would lead to higher customer energy costs, consumption of more expensive fuels, and potentially reduced reliability and greater emissions.

5) If economic dispatch causes greater dispatch and use of non-utility generation, what effects might this have – on the grid, on the mix of energy and capacity available to retail customers, to energy prices and costs, to environmental emissions, or other impacts? How would this affect retail customers in particular states or nationwide? If you have specific analyses to support your position, please provide them to us.

RESPONSE: In addition to the information provided in response to Item 3 and 4, it is important to emphasize that Duke considers all resources over which it has dispatch control when performing security constrained economic dispatch. Any IPP can be included in performing the economic dispatch function, provided the IPP: grants Duke the authority to dispatch the IPP's resource; and provides sufficient price/cost data to run the models and determine the least cost dispatch order. In addition Duke Power wishes to emphasize that it has hourly traders reviewing the market 24 hours a day 7 days a week for purchases to displace higher cost utility resources. The end result of this process is no different from that employed in Regional Transmission Organizations.

6) Could there be any implications for grid reliability – positive or negative – from

greater use of economic dispatch? If so, how should economic dispatch be modified or enhanced to protect reliability?

RESPONSE: Duke Power already uses security constrained economic dispatch as discussed in response to the previous questions. It is therefore difficult to understand how there could be "greater use of economic dispatch". If "must take" PURPA purchases could instead be economically dispatched based on their actual costs, this might constitute greater use of economic dispatch but as it is PURPA "must take" requirements result in dispatch out of merit order.

Use of "pure" economic dispatch without recognition of constraints such as reliability, environmental cost and emission limitations, could result in higher customer energy costs, consumption of more expensive fuels, reduced reliability or greater emissions. As explained above, in order to protect reliability, after a "pure" economic dispatch is developed, reliability and other constraints must be incorporated in the actual dispatch such that all criteria are satisfied at the minimum increase in cost.

JONES DAY

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September 23, 2005

Mr. David H. Meyer
Acting Deputy Director
Office of Electricity Delivery and Energy Reliability
United States Department of Energy
Washington, D.C. 20585

Re: Study On The Benefits Of Economic Dispatch In The Electricity Industry

Dear Mr. Meyer:

South Carolina Electric & Gas Company ("SCE&G") hereby submits comments in the form of responses to the economic dispatch questionnaire that you circulated to various electricity industry stakeholders on September 1, 2005.

SCE&G appreciates the opportunity to offer its comments on this important issue and hopes that the information presented will be useful to the Department of Energy as it prepares its economic dispatch report to Congress and the States as provided in the Energy Policy Act of 2005.

Please let me know if you have any questions or require any additional information.

Sincerely yours,

Kevin J. McIntyre
Kevin J. McIntyre

Attorney for
South Carolina Electric & Gas Company

Attachment

WAI-2183133v1
858430 - 010011

RESPONSES OF
SOUTH CAROLINA ELECTRIC & GAS COMPANY
TO ECONOMIC DISPATCH QUESTIONNAIRE
OF U.S. DEPARTMENT OF ENERGY

South Carolina Electric & Gas Company ("SCE&G" or "Company") is a vertically integrated electric utility serving nearly 600,000 retail and requirements wholesale customers in its electric service territory, entirely located within the state of South Carolina. In serving its customers, SCE&G continually strives to minimize costs, consistent with reliability, environmental and other regulatory requirements. Toward that end, SCE&G's practices include the performance of careful, comprehensive economic dispatch. In a manner consistent with applicable constraints, SCE&G dispatches the various generating resources available to serve its customers' load in order of economic merit. This includes not only the dispatch of various Company-owned generating units, but also extensive bulk power purchasing activity -- *i.e.*, purchases made by the Company from qualified sellers when such transactions help the Company to achieve its goal of minimizing costs without jeopardizing reliability or adherence to other requirements. SCE&G's decision-making in considering such purchases is guided not by the identity of the seller (*e.g.*, another utility, a non-utility generator, etc.), but rather by the delivered cost to SCE&G of the electricity, as compared to the alternative resources available to the Company. SCE&G's use of power purchases along with its own generation in serving its native load customers' needs is subject to the jurisdiction of the Public Service Commission of South Carolina These concepts are discussed in greater detail below.

Question 1:

What are the procedures now used in your region for economic dispatch? Who is performing the dispatch (a utility, an ISO or RTO, or other) and over how large an area (geographic scope, MW load, MW generation resources, number of retail customers within the dispatch area)?

Response 1:

SCE&G, in addition to serving approximately 600,000 retail and requirements wholesale customers in its service territory, also serves firm wholesale load both within and outside of the SCE&G control area, in North Carolina and South Carolina. SCE&G's electric service area covers more than 15,000 square miles. SCE&G's recent summer peak load was 4,820 megawatts ("MW"). SCE&G's generation capability includes nearly 6,000 MW of electric generation resources, including hydroelectric facilities (run-of-river, storage, and pumped storage), simple-cycle and combined-cycle combustion turbines, coal-fired steam, and nuclear units. The dispatch of all of these resources is performed by SCE&G itself; there is no applicable regional economic dispatch system, other than the Company's own performance of economic dispatch within its control area.

Economic dispatch is a daily practice at SCE&G. One or more times each day, SCE&G engineers in the Economic Resource Commitment ("ERC") group communicate with employees in the reliability function of SCE&G Transmission's System Control group and agree on an hourly load forecast for the coming week or more. An hourly economic dispatch plan is then prepared, observing the necessity to provide operating reserves as well as capacity and energy. The plan is communicated electronically to the System Control reliability function employees who review it and then communicate it to the Balancing/Interchange desk in System Control. Dispatchers there have the responsibility for dispatch of system resources in real time, coordinating with Power Marketing for bulk power purchases and sales.

Question 2:

Is the Act's definition of economic dispatch appropriate? Over what geographic scale or area should economic dispatch be practiced? Besides cost and reliability, are there any other factors or considerations that should be considered in economic dispatch, and why?

Response 2:

Section 1234(b) of the Act defines economic dispatch as "the operation of generation facilities to produce energy at the lowest cost to reliably serve consumers, recognizing any operational limits of generation and transmission facilities." This definition is a useful one, but it misses some considerations.

First, as to geographic scope, the fact that an economic dispatch area is small in scale generally presents no obstacle to effective economic dispatch. The benefits derived from economic dispatch are not determined by geographic area; rather, they are determined by the ability to select among different resources on the basis of cost without compromising system reliability or violating other requirements. If a bulk power system has even as few as two different resources available to it, then it has the ability to exercise economic dispatch. As a result, even municipal utilities often are large enough to make beneficial use of economic dispatch planning to minimize their variable costs.

On the other hand, an effort to perform economic dispatch throughout an exceedingly large geographic region would be more likely to cause problems. Such an area would be more likely to contain restricted transmission flowgates that necessitate different economic solutions (and outcomes) in different sub-areas. An appropriate geographic scale permits proper economic dispatch to take place, minimizing costs to a utility's retail native load customers overall, while impeding neither efficient transmission flows nor adherence to all reliability requirements.

"Cost" is the central operative concept of the Act's definition of economic dispatch. True economic dispatch seeks to minimize total short-run variable costs of

supplying projected load over some near horizon, subject to various constraints. These costs do include "the operation of generation facilities," as reflected in the Act's definition, but they also include startup and shutdown costs for those facilities. They further include the delivered costs of power purchased onto the bulk power system in question. Thus, the relevant costs, from the standpoint of economic dispatch decision-making, must include any acquisition costs and, where transmission is separately acquired, wheeling charges.

For a bulk power system of any complexity, economic dispatch planning is an exacting computational process involving chiefly the methods of calculus and linear or nonlinear programming. Cost data are required for each resource subject to dispatch. The data may consist of elaborate cost functions such as may be derived from individual unit startup cost, fuel cost, heat rate curves, and emissions and other variable operations and maintenance cost, or the data may consist of single values, such as the delivered price of an available power purchase or the daily dispatch cost of energy-limited storage hydro. Cost minimization must be accomplished over a horizon, not over an hour, in order to take into account such costs as startups or the costs to replenish pumped-storage hydro. One point that is essential to proper economic dispatch is that "cost" must mean the cost seen by the decision-maker. Thus, with regard to power that is available for purchase by the economic dispatch decision-maker, "cost" must mean the price offered by the seller. That seller of course has its own underlying cost of production or acquisition, but those data generally are unknown to the decision-maker. Economic dispatch cannot work properly if decision-makers were required to make dispatch decisions on the basis of cost data unknown to them. If, for example, an economic dispatch decision-maker were to purchase power from a seller's generation unit on the basis of that unit's cost of production, only to have to pay for that power on the basis of a different figure (prevailing market price or any other figure that did not serve as the basis for the decision-maker's purchase), then the result would be economic inefficiency and, in all likelihood, a shift of excessive costs to ratepayers.

As to the actual performance of economic dispatch decision-making, the computational methods and the data considered are fairly similar for all practitioners, regardless of size or location. (SCE&G is aware of several software vendors serving this market, and similar mathematics appear to underlie all of their products.) Where matters differ from one bulk power system to another is in the constraints that the economic dispatch processes must observe. Equipment condition constraints -- *e.g.*, unit outages or planned or emergency maintenance procedures -- are very similar from system to system. However, the timing of such temporary conditions is specific to the particular system. But other classes of constraints may be very different from system to system.

One such class of constraints is environmental. Any means of electric generation is subject to occasional or continuing environmental limitations -- nuclear, hydro, fossil-fueled, wind. But the environmental problems and solutions vary so widely and the jurisdictions differ so much that the nature and extent of environmental constraints for any system is likely to be different from the nature and extent of any other system's constraints.

Another class of constraints that differs from system to system is provision for operating reserves. Operating reserves are resources that are not providing energy at present but are standing ready to provide energy quickly to replace other resources that may be lost to some contingency. Operating reserve requirements are continual and must be planned for, but any bulk power system's operating reserve requirement is influenced by and may be determined by the system's own policy and by the policies of its state commission, NERC region or subregion, RTO, ISO, power pool, or reserve-sharing agreement. Thus, although the requirement to plan for and maintain reserves is ubiquitous, the amount of capacity held in reserve and the types and conditions of resources that may be counted as reserves are likely to vary considerably from system to system. Note that while some sources of reserves do not present operating costs while in reserve status (storage hydro, for instance), other sources of reserves can be counted only if they are on line and incurring operating costs (undispatched "headroom" on a fossil-fueled unit deliberately held below its output capability). Economic dispatch planning necessarily involves planning to provide economically not only capacity and energy for the projected load in each time period but also to provide required operating reserves in each time period, a requirement not expressly recognized in the Act's definition of economic dispatch.

Question 3:

How do economic dispatch procedures differ for different classes of generation, including utility-owned versus non-utility generation: Do actual operational practices differ from the formal procedures required under tariff or federal or state rules, or from the economic dispatch definition above? If there is a difference, please indicate what the difference is, how often this occurs, and its impacts upon non-utility generation and upon retail electricity users.

Response 3:

SCE&G regards economic dispatch as something that must be performed in a manner that is fully consistent with all applicable statutory and tariff and other regulatory requirements. Economic dispatch planning is a comprehensive system-wide process, not a series of discrete procedures for different classes of generation, whether based on ownership or otherwise. However, not all dispatch is economic dispatch. The bulk power systems in many control areas have certain resources designated as "*must-run.*" This determination is usually based on a system need that supersedes economics. It may be that voltage in an area is subject to deterioration in the absence of local generation, or that a resource is located on the constrained side of a transmission bottleneck. Whatever the reason for such a dispatch out of economic merit order, the qualifying condition is the resource's location on the transmission system, not the identity of its owner. Additionally, some non-utility generation ("NUG") resources will be dispatched regardless of economic merit order because of contract or regulatory requirements.

"PURPA machines," too, are found on many systems. In such cases economic dispatch planning accomplishes its objectives by planning the dispatch of the *non*-must-run resources to meet the portion of load still unmet after the dispatch of the must-run resources.

There is nothing in the theory of economic dispatch planning that disfavors the use of NUG resources or favors the use of utility-owned generation. When economic dispatch is performed properly, power available for purchase is evaluated by its delivered price, and the offering seller may be another utility or it may be a NUG. Either seller may be a perfectly legitimate and qualified resource; if so, the economic distinction is a simple matter of offered price. This model of economic dispatch is the one practiced by SCE&G throughout the procedures described in Response 1, above.

The type of dispatch most favorable to the interests of customers is economic dispatch layered over reliability-must-run dispatch in a way that is the least intrusive means of accomplishing system reliability requirements. Units that are dispatched out of economic merit order but which are truly needed for system reliability benefit customers by assuring reliability, but beyond that, dispatch best benefits customers by accomplishing cost minimization.

Question 4:

What changes in economic dispatch procedures would lead to more non-utility generator dispatch? If you think that changes are needed to current economic dispatch procedures in your area to better enable economic dispatch participation by non-utility generators, please explain the changes you recommend.

Response 4:

SCE&G is uncertain as to what changes in economic dispatch procedures would result in increased usage of NUG resources. Obviously a mandated preference for NUG power would increase NUG usage, but such a mandate would be contrary to cost minimization and, in any event, is unnecessary. Non-utility generators currently are not precluded from being dispatched either as reliability-must-run resources (where their location on a transmission system allows them to serve that role) or as economic resources, based on the pricing they offer to the economic dispatch decision-maker.

Any effort to force an increase in dispatch of NUG resources, assuming no other changes, would work counter to economic dispatch. Such a policy would promote the interests of NUGs, but it would be accomplished by creating a new class of out-of-economic-merit-order dispatch (similar to required dispatch of PURPA QFs) regardless of the economics of the resources in question. Given the way electric generation and purchase costs are passed on to utility customers in most jurisdictions, benefits to NUGs from such a policy would be achieved at the expense of customers' best economic

interests. Moreover, SCE&G, in carrying out its economic dispatch procedures, already has hourly energy trading personnel that monitor the market in real time, every hour of every day. These personnel make it possible for SCE&G to take advantage of extensive power purchase opportunities whenever a power purchase makes better economic sense than incurring (or continuing to incur) the cost of another resource. Thus, in SCE&G's view, any policy that has as its objective "more non-utility generator dispatch," as opposed to a goal such as more efficient economic dispatch, would be misguided and contrary to the public interest. Such a directive would simply get in the way of procedures that already are working and are serving customers' interests.

Question 5:

If economic dispatch causes greater dispatch and use of non-utility generation, what effects might this have -- on the grid, on the mix of energy and capacity available to retail customers, to energy prices and costs, to environmental emissions, or other impacts? How would this affect retail customers in particular states or nationwide?

Response 5:

To the extent that properly performed economic dispatch during a given period results in a greater dispatch of NUGs than during a previous period, there should be no adverse effects on grid reliability. However, as suggested above in Response 2, if economic dispatch procedures were mandated throughout a region of excessive geographic scope, such a requirement could well have negative effects on reliability. All other things held equal, the more "local" a generation resource is, the less likely it is to be affected by transmission constraints and corresponding concerns regarding reliability. Such constraints and concerns are exacerbated to the extent that one moves farther away from a given utility's control area.

It is important to note that a mechanism *other* than economic dispatch is what primarily protects the reliability of the transmission grid; that mechanism is known as security-constrained dispatch, or simply "constrained dispatch." Under constrained dispatch procedures, the control area operator serves as the balancing authority responsible for analyzing the reliability effects of any economic dispatch order. If a problem or issue is identified, then the control area operator takes remedial action, including the dispatch of various generating units as necessary, irrespective of economic merit, to resolve the problem. Utilities including SCE&G already use constrained dispatch procedures simultaneously with their economic dispatch practices, and, as noted, those economic dispatch practices already include bulk purchases from NUGs. Thus, any increased usage of NUG generation, in and of itself, would not be likely to affect reliability.

The absence of negative effects resulting from an increased usage of NUG resources of course presumes that NUGs will satisfy the obligations that they offer to

meet. This latter condition has not always been fulfilled, in SCE&G's recent experience. To the extent that an increase in NUG resource usage results from properly performed economic dispatch -- as opposed to an out-of-economic-merit-order preferential treatment -- retail customers would not be disadvantaged by such a trend. It would not be possible to predict effects on changes in environmental emissions, because a range of mitigation strategies exists for several kinds of pollutants. However, because operating costs resulting from environmental requirements are included among the operating costs known to the economic dispatch decision-maker or are embedded in the prices offered to that decision-maker, significant environmental consequences from any trend of increased NUG usage would be unlikely.

If higher NUG usage resulted not from economic dispatchers' decisions based on costs but rather on a statutory or regulatory directive to use NUGs, then customers' interests would be harmed. Such a directive would be inconsistent with economic dispatch and would be antithetical to the concept of cost minimization. Moreover, if such a directive were to cause simultaneously both an increase in customer costs and a reduction in the use of utility-owned generating units, the negative effects could include societal or political pressures unjustly jeopardizing utilities' ability to recover the capital costs associated with their generating units -- units that were constructed to enable the utilities to satisfy their service obligation to their customers.

As to the mix of energy and capacity available to retail customers, customers certainly benefit from the energy and capacity made available to them via economic dispatch, but they do not experience different components of the supply mix differently. From the retail customer's perspective generally, a kilowatt is a kilowatt, irrespective of its source. Customers in retail access jurisdictions may make choices from different vendors of capacity and energy, but to the extent that they choose to do so, that is not economic dispatch as defined in the Act or as practiced by utilities. Economic dispatch decision-makers, in their constant effort to minimize costs, must be able to make their best selections as among all available resources, taking into account reliability concerns and the other constraints described above.

Question 6:

Could there be any implications for grid reliability -- positive or negative -- from greater use of economic dispatch? If so, how should economic dispatch be modified or enhanced to protect reliability?

Response 6:

On most bulk power systems, economic dispatch decision-makers attempt to achieve the continuous provision of capacity and energy at the least cost, subject to necessary constraints. Those constraints, as noted above, include such obvious constraints as equipment limitations and environmental requirements, but they also

include reliability requirements. Thus, the "economic" part of economic dispatch is -- and must be -- secondary to and conditional upon reliability. The question posits "greater use of economic dispatch," which could be construed as suggesting that economics should become primary over reliability. Any such policy or trend would very likely lead to instances of reduced reliability.

REFERENCED MATERIALS

CITE	DOCUMENT	WEB ADDRESS
Transcript page 2, line 15	EPA	http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:h6enr.txt.pdf
Transcript page 3, line 6	EPA	"
Transcript page 4, line 14	EPA	"
Transcript page 5, line 8	EPA	"
Transcript page 5, line 22	EPA	"
Transcript page 9, line 25	EPA	"
Transcript page 22, lines 8-9	EPA	"
Transcript page 27, line 19	EPA	"
Transcript page 28, line 16	EPA	"
Transcript page 31, line 9	Section 1233 of EPA	"
Transcript page 33, line 24	Section 1233 of EPA	"
Transcript page 37, line 7	Section 1233 of EPA	"
Transcript page 37 lines 20	EPA	"
Transcript page 38, line 3	Section 1233 of EPA	"
Transcript page 38, line 6	EPA	"
Transcript page 38, lines 22-23	EPA	"
Transcript page 43, line 9	EPA	"
Transcript page 47, line 9	EPA	"
Transcript page 50, line 13	EPA	"
Transcript page 50, line 15	EPA	"
Transcript page 50, line 22	EPA	"
Transcript page 51, line 9	EPA	"
Transcript page 52, line 14	EPA	"
Transcript page 4, lines 14-15	Public Utility Holding Company Act of 1934	http://www4.law.cornell.edu/uscode/html/uscode15/usc_sec_15_00000079---a000-.html
Transcript page 5, lines 22-23	Public Utility Regulatory Policies Act of 1978 http://www4.law.cornell.edu/uscode/html/uscode15/usc_sec_15_00000079---a000-.htm	
Transcript page 20, lines 15-16	North Carolina net metering rule – attached	

Transcript page 30 line 18	FERC Order 888	http://www.ferc.gov
Transcript page 30, line 25	FERC Order 888	"
Transcript page 33, line 19	FERC Order 888	"
Transcript page 41, line 25	FERC Order 888	"
Transcript page 24, lines 16-18	Comments that Progress Energy, Duke and SCE&G filed with the Department of Energy in their parallel study Of economic dispatch - attached	
Transcript page 54, line 2	Price Anderson Act	http://thomas.loc.gov/cgi-bin/query/F?c109:11:./temp/~c1097B27xc:e607606