

BRAND & HALL
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SEAN T. BEENY

August 5, 1980

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1523 L STREET, N. W.
WASHINGTON, D. C. 20005

(202) 347-7002

Fredric D. Chanania, Esquire
Counsel for NRC Staff
Office of the Executive Legal
Director
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Re: In the Matter of South Carolina Electric &
Gas Company and South Carolina Public
Service Authority (Virgil C. Summer
Nuclear Station Unit No. 1), Docket No. 50-395A

Dear Mr. Chanania:

This is in response to your letter of July 8, 1980 directed to P. T. Allen, inquiring about negotiations between Central Electric Power Cooperative (Central) and the applicants herein, and requesting other information.

The negotiations between South Carolina Electric & Gas (SCE&G) and Central may be divided into two parts: (1) negotiations solely between SCE&G and Central and, (2) negotiation between SCE&G on the one hand and Central and North Carolina E.M.C. on the other.

CENTRAL - SCE&G NEGOTIATIONS

SCE&G serves about 31 mw of Central's load at Central's Berkeley (30mw) and Palmetto (900-1000 kw) delivery points. SCE&G offered joint ownership in generating plants limited in amount to serve only those comparatively small loads. SCE&G'S proposal was made on January 5, 1979. Central declined on May 1, 1979, since such an arrangement would simply serve to perpetuate the isolation of that load from an integrated Central sytem. On June 12, 1979 SCE&G wrote to confirm that Central was not interested in joint generation. On June 19, Central responded to correct the mistaken impression that Central was not interested in any joint generation agreement. Central pointed out that it had simply declined to participate in joint generation plans limited to serving only 31mw of Central's approximately 750 mw load.

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Fredric D. Chanania, Esquire
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Following the recent issuance of the Commission's order in this docket, SCE&G's Group Vice President, Legal, on July 15, made an appointment to meet with Mr. Pat Allen on August 6th. Central is not aware of the purpose for which the meeting is requested but it may be for the purpose of discussing power exchange arrangements.

CENTRAL - NCEMC NEGOTIATIONS WITH SCE&G

At the suggestion of Counsel for SCE&G (Mr. Williams), Central and NCEMC drafted a joint proposal for settling all antitrust questions between these three parties. NCEMC is the plaintiff in an antitrust suit against SCE&G and CP&L in the Federal District Court in the Middle District of North Carolina which sits in Greensboro. The joint proposal was intended to be Exhibit No. 1 hereto, but after several switches in SCE&G's position it finally decided not to permit our disclosure of the proposal, even to staff counsel.

The joint proposal, as well as any discussions incident thereto, are absolutely privileged and confidential under an agreement between the respective parties. In accordance with your suggestion, I called Mr. Rader concerning a stipulation that these items be revealed to NRC's staff counsel as well as to the Commission. There was a misunderstanding between counsel as to what was requested which initially delayed my sending this letter to you. Mr. Rader then agreed to permit me to disclose these matters to you on the condition that you will keep them confidential and that if he so desires, we will agree to a protective order subsequently, nunc pro tunc. I agreed to his conditions, but late Friday evening received a telephone call from John McGrane, Esquire of the law firm of Reid & Priest stating an entirely different position on the matter from that stated by Mr. Rader and insisting that the joint proposal not be disclosed. I have decided now not to disclose anything more than the surrounding circumstances without having in hand some written authorization from SCE&G since there now seems to be some question as to who speaks for it. Inasmuch as SCE&G has opened up the topic of the reason for Central's disissal from these joint negotiations, we believe it is proper to give Central's perspective of the same matter.

At a meeting in Washington on November 27, 1980 the proposal was transmitted to SCE&G and explained in detail by Central and NCEMC. At the next meeting in Washington, SCE&G stated at the outset that it declined to (1) bargain for

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any damages, and (2) negotiate further with Central even though its lawyers had initially suggested Central's participation and invited the joint proposal. The meeting ended when the undersigned (Mr. Brand) asked the spokesman for SCE&G (Mr. Medvecky) whether there was "anything further" and the answer was "no." This was quite surprising to the cooperative parties inasmuch as considerable effort had been expended in framing the joint proposal and they had expended substantial time and expense in traveling from North and South Carolina to attend the scheduled meeting in Washington. It appeared to them that if the purpose of the meeting were so limited, the matter could have been handled by letter.

NEGOTIATIONS BETWEEN CENTRAL AND SCPSA

Negotiations between Central and SCPSA commenced well before January 1, 1979 by which time SCPSA had already rejected proposals by Central which would have permitted a viable coordinating arrangement between them. These included (1) a proposal which would have shared existing generation capacity between SCPSA and Central pro rata and would have made each responsible for its own load growth, to be carried out by the coordinated development of large scale generation, and (2) a proposal for shared transmission development.

The generation concept pressed by SCPSA requires Central in effect to pay for all of its own growth plus part of the cost of SCPSA's growth. Central's new capacity resources would supply a part of its requirements, but the supplementary power obtained from SCPSA would contain a blend of both older resources and new resources installed principally to meet the needs of the SCPSA load other than Central's. Since January 1, 1979 the parties have negotiated a draft of agreement* which gives a theoretical opportunity to Central to engage in developmental coordination of base load units. However, if it did so, its costs for bulk power supply as compared with continued purchase of firm power from SCPSA would be significantly greater and it is unlikely it could finance its share of units under those circumstances. The opportunity for developmental coordination under those circumstances becomes wholly illusory.

*/ The agreement is entitled "Power System Coordination and Integration Agreement Between South Carolina Public Service Authority and Central Electric Power Cooperative, Inc. SCPSA has transmitted a copy of that agreement to you by letter of July 28, 1980.

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Before January 1, 1979 SCPSA had also rejected Central's proposals to participate in a meaningful way in construction of bulk transmission. The draft negotiated in 1979 and early 1980 reserves to SCPSA the right to construct and own all bulk transmission. Central is permitted to construct lines to its own new delivery points if they are radial from the bulk system and 40% of all lines which cannot clearly be characterized as bulk transmission.

The negotiated draft would not permit Central to construct transmission lines to integrate its own generating resources, to integrate its own load centers, or to connect its own generation directly to its own load centers when that would be more economical for Central rather than wheeling through SCPSA's transmission system.

Lacking the bargaining power to insist on these key features, Central's negotiators have bargained a draft which Central's Board of Directors authorized to send to the REA for evaluation and comment. Central's Board specifically has not authorized its President to execute the draft of contract and is awaiting REA's comments to determine whether the agreement leaves them in a better situation than they occupy at present.

It is noteworthy that an agreement such as this one which would preclude a utility from extending its transmission lines it would have the the usual economic incentives to construct, has been held to violate the antitrust laws. Pennsylvania Water and Power Company et al v. Consolidated Gas, Electric Light and Power Company of Baltimore, 184 F. 2d 552 ((4th 1950).

Two areas of the contract were reserved even from R.E.A. evaluation. One was SCPSA's CIF proposal in which SCPSA could raise it rates to Central substantially in what may appropriately be called "WWIP" or "wishful work in progress".

"CWIP" stands for construction work in progress. In recent years controversy has erupted over utilities attempting to charge customers for electric plant not yet in service but already under construction. In its CIF proposal, SCPSA would charge Central for plant which SCPSA may wish to construct at some future time, but for which it has not yet even completed construction drawings. Putting genuine CWIP in the rate base is itself a questionable practice. The FERC has ruled that it may be done only in exceptional circumstances, where the petitioning utility is experiencing "severe financial distress". A fortiori, charging for WWIP has even less merit.

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Lastly, Central has great concern over the provision on service in new territory. Central has suggested excluding new members from the present agreement because it does not want to be precluded from constructing transmission in new areas as it would be under the restrictions of the agreement concerning SCPSA's control of all bulk transmission. On the other hand, it is difficult to see how it can serve new members competitively without starting from its existing base since the economic feasibility of service from an isolated system is so much less than service by adding to an existing system.

Meetings were held between the parties on the dates listed:

<u>1980</u>	<u>1979</u>
January 7	February 12 (Murphy)
January 30	March 16
January 31	April 30
March 11	May 16
March 21	July 2-3
	July 26
	August 29
	September 24
	October 25-26
	December 3-4

The negotiators for Central usually were:

P. T. Allen
P. Roberts
J. Howard
J. Parish

The Authority's negotiators were:

J. Lynxwyler
H. Cyrus
C. G. Gramling
K. Ford
W. Mescher
W. Sutton
R. Nolty
W. Murphy

Comments from REA are currently being received.

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Discussions with SCE&G on plant participation have been referred to above. SCPSA would impose a 30%-of-cost penalty on Central for participation in the Summer Nuclear Unit by requiring it to absorb all the costs of retiring a 70 million dollar senior security issue without any offset for the benefits that would accrue to SCPSA as a result of changing the majority of its securities from second mortgages to first mortgages. Under these circumstances it is extremely unlikely that Central would participate in the Summer Nuclear Unit.

Merger Proposals

Central has not received new merger proposals. Based on information received by Mr. Allen from Mr. Bill Strozier who was formerly Chairman of Berkeley Coop's Board of Directors, the Berkeley Cooperative, one of Central's members, recently received an inquiry from SCPSA about the possibility of its purchase.

Other New Developments

SCPSA has recently become more aggressive in competing for loads in Central's members' territory, far from any other distribution load served by it. A good example is the recent "Crowfield" subdivision to be developed by the Westvaco Corporation in Berkeley County near Goose Creek, South Carolina. Central's member, Berkeley Electric Cooperative, has provided all construction service to the subdivision and service for sewage treatment and lift stations. Westvaco had requested Berkeley to serve in 1977, but Santee-Cooper has promised certain free services to the Home Owners Association in attempting to secure the right to serve all lots in the subdivisions to which service has not as yet been extended by Berkeley.

SCE&G recently successfully competed with Mid-Carolina Electric Cooperative, Central's member, for the load of a Michelin Tire Plant. Its successful arguments were based on the facts related by Central to this Commission showing its poor long term power supply prospects absent the Nuclear Regulatory Commission's requiring license conditions compelling coordination. Although SCE&G has not acknowledged those facts before this Commission it urged their acceptance by Michelin as the reason for Michelin not entering into contract with Central's member as had originally been contemplated.

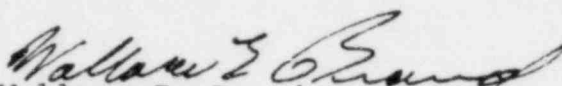
BRAND & HALL

Frederic D. Chanania, Esquire
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I enclose a copy of Central's most recent annual statement as Exhibit No. 2.

If I can be of further service, please let me know. Lack of time precluded me from having this statement verified by Mr. Allen but if you still want such verification please advise me, and we will attempt to do so before the deadline for filing comments.

Very truly yours,


Wallace E. Brand

cc: H. Morrison
E. Rader
P. Allen
P. Roberts
E. Roberts

Enclosures

LAW OFFICES

CONNER & MOORE1747 PENNSYLVANIA AVENUE N. W.
WASHINGTON, D. C. 20006TROY B. CONNER, JR.
ARCH A. MOORE, JR.*
MARK J. WETTERHAHN
ROBERT M. RADER
*NOT ADMITTED IN D. C.

July 28, 1980

1000 001 30

7 53 (202) 833-3500
CABLE ADDRESS: ATOMLAW

Fredric D. Chanania, Esq.
 Counsel for the Nuclear Regulatory
 Commission Staff
 Office of the Executive Legal
 Director
 U. S. Nuclear Regulatory
 Commission
 Washington, D.C. 20555

In the Matter of
 South Carolina Electric & Gas Company
 (Virgil C. Summer Nuclear Station)
Docket No. 50-395A

Dear Mr. Chanania:

This will respond to your letter of July 8, 1980 to George H. Fischer, Esq., South Carolina Electric & Gas Company ("SCE&G"), requesting certain information in order to assist the Staff in making its response to the Memorandum and Order dated June 30, 1980 in this proceeding.

Following the formal advice from the Attorney General to the NRC on March 31, 1972 and the issuance of the construction permit for the Summer facility, SCE&G did not have any discussions with Central regarding joint ownership of (or other means of access to) generation and transmission facilities with Central until 1977 when Central was granted leave to intervene in the Saluda Hydroelectric proceeding before the Federal Power Commission, Project 516, a case entirely unrelated to the Summer proceeding. Thereafter, as shown from the attached correspondence, SCE&G and Central discussed joint ownership and wheeling to some extent over the next three years. However, no offer resulted from these discussions.

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1. As to events since January 1979, Central and SCE&G have discussed these matters in person only twice, on May 1, 1979 and in early 1980. However, as indicated from the attached correspondence dated May 4, May 15, June 12 and June 19, 1979, between Central and SCE&G, Central states that joint ownership in a fossil-fuel plant, to be operational in the mid-1980's, is not a proper solution to the isolated load now served by SCE&G on its Berkely Electric Cooperative system. Instead, it has requested that SCE&G consider a wheeling arrangement for power Central would obtain from Santee Cooper and furnish to Berkeley Electric (a constituent of Central). This point was most recently discussed between SCE&G and Central, but only briefly, at a meeting in early 1980. There has been no other meeting between SCE&G and Central on these points. ^{Questionable}*/ Wheeling for Berkeley Cooperative has been the only specific transmission service discussed by Central. Prior to 1977, Central had made no request to SCE&G that it wheel power to any of Central's constituents.

2. There has been no request by Central to SCE&G for access to the Virgil C. Summer Nuclear Station. *true*

3. There has been no discussion concerning the possibility of a merger between SCE&G and Central. *true*

With regard to your question as to any changes in our 1980-1990 projections for annual peak loads, generation and transmission plans, and other power supply sources, there have been the following changes.

SCE&G has determined that it will retain rather than retire 131 MWe of oil units previously scheduled for retirement in 1980 (see Table 7.3, Draft Environmental Statement

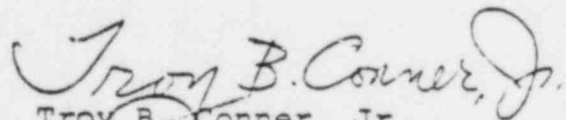
*/ Central attended a settlement negotiation session between North Carolina Electric Membership Corporation and SCE&G on January 28, 1980, which pertained to an unrelated judicial proceeding entitled North Carolina Electric Membership Corporation, et al. v. Carolina Power & Light Co., et al., No. C-77-396-G (M.D.N.C.). Counsel for plaintiffs is also counsel for Central in the present proceeding. However, neither Central nor any of its constituents is a party to that action. SCE&G took the position that Central's contentions in the NRC case should not be discussed at a meeting concerning issues in the NCEMC Federal court case.

(operating license stage), Virgil C. Summer Nuclear Station, NUREG-0534, June 1979). This unit will continue to be used for peak power. Further, SCE&G now plans to construct a 100 MWe and a 200 MWe oil unit to be operational in 1985 and 1986, respectively, also for peak power use. Finally, the new 500 MWe coal unit scheduled for operation in 1985 (see Table 7.3, DES) is now scheduled for operation in 1987. The above plan for installation of generating capacity is subject to change as may be determined from revised forecasts.

There have been no changes in SCE&G's competitive relationship with Central and Santee Cooper since December 1978. Only one development has occurred at all, but with no competitive significance. On September 4, 1973, SCE&G signed a wholesale electric power supply agreement with Berkeley Electric Cooperative. On February 6, 1979, SCE&G consented to an assignment of its agreement with Berkeley to Central. The assignment was approved by the REA Administrator on July 12, 1979, and will shortly be filed with FERC. Since SCE&G will supply Central with the bulk power for transmission to Berkeley, the assignment will only change the mode of billing to Berkeley and will not affect the competitive position of SCE&G and Central.

We shortly will forward a copy of the Annual Report as requested under separate cover.

Sincerely,


Troy B. Conner, Jr.
Counsel for Applicant

Enclosures

cc: Per Service List

Central Electric Power Cooperative, Inc.

P. O. Box 1455/121 Greystone Boulevard/Columbia, S. C. 29202/(803) 779-4975

SYD. COLE
MASTER FILE

ROUTE TO:

FILE # _____

June 19, 1979

Mr. T. C. Nichols, Jr.
Vice President and Group Executive
Power Production and System Operations
South Carolina Electric & Gas Company
Post Office Box 764
Columbia, South Carolina 29218

Dear Tom:

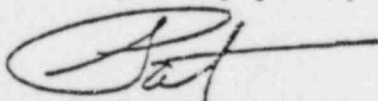
After reading your letter of June 12, 1979 I guess that rather than misunderstanding, the problem is probably communication on my part.

With regard to joint ownership in future plants, we said that we did not feel that joint ownership in a mid-1980 plant was a proper solution to the isolated load now served by SCE&G on the Berkeley Electric Cooperative system. We indicated a desire to intergrate this load into the larger Central load and asked that you consider accomplishing this through a wheeling arrangement.

We indicated that Central would be receptive to any proposal to joint ownership in a future plant of SCE&G and we suggested that you consider some capacity larger than proposed for the Berkeley Electric Cooperative isolated load. Central is currently reviewing its power supply options after 1987 and in this regard, we are currently working with Santee Cooper as well as talking to Carolina Power & Light and you.

I apologize if we have caused you any confusion and we will appreciate your consideration in these matters.

Very truly yours,



P. T. Allen
Executive Vice President
and General Manager

cc: Mr. G. H. Fischer
Mr. C. Pinckney Roberts

Robert W. Williams, Jr.
President
Dorchester S. C.

John C. Anderson
Vice-President
Sumter S. C.

Robert B. Awbrey
Secretary-Treasurer
Bennettsville S. C.

P. T. Allen
Executive Vice President
and General Manager

SOUTH CAROLINA ELECTRIC & GAS COMPANY

POST OFFICE BOX 764

COLUMBIA, SOUTH CAROLINA 29218

T. C. NICHOLS, JR.
VICE PRESIDENT AND GROUP EXECUTIVE
POWER PRODUCTION AND SYSTEM OPERATIONS

June 12, 1979

Central Electric Power Cooperative, Inc.
Post Office Box 1455
121 Greystone Boulevard
Columbia, South Carolina 29202

Attention: Mr. P. T. Allen
Executive Vice President
and General Manager

Dear Pat:

Your letter of May 15, 1979 indicated a possible misunderstanding concerning the discussions at our May 1 meeting.

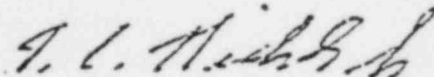
We discussed a specific proposal at this meeting relating to an SCE&G fossil-fired plant in the mid-1980's. You stated that CEPCO had no present interest in joint ownership of that plant.

A specific wheeling-type arrangement relating to Johns Island was also discussed and we informed you that this request would be considered. I am not aware of any other specific requests made at this meeting by CEPCO to SCE&G.

Pat, if you feel that you made some other special request that we should be considering other than that mentioned in my letter, please let me know.

Again, it was a pleasure for George and I to meet with you and Pinckney to discuss this important matter.

Sincerely,



T. C. Nichols, Jr.

TCN:bwm

cc - Mr. G. H. Fischer

247 0 111

Central Electric Power Cooperative, Inc.

P. O. Box 1455/121 Greystone Boulevard/Columbia, S. C. 29202/(803) 779-4975

S/G OPER.
MASTER FILE

TO
FILE #

May 15, 1979

Mr. Tom Nichols
S. C. Electric & Gas Company
Post Office Box 764
Columbia, South Carolina 29218

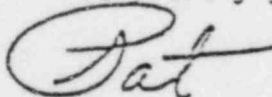
Dear Tom:

After reading your letter of May 4, 1979, I realize that there may be some misunderstanding.

You have correctly stated Central's position with regard to the isolated small load now served by SCE&G on the Berkeley Electric system. We feel that this isolated load must be eventually integrated into the Central total load for best economics and that to purchase capacity without future ability to integrate that capacity would be to perpetuate the problem. We are however very much interested in joint ownership, and other utility relationships with regard to the total Central system. Central is currently striving to provide for its electrical load requirements after the year 1987 and to this end wishes to continue requests for joint ownership, wheeling, reserve sharing, etc., whereby Central can provide for its member needs. As you know we must act now to provide for 1987 requirements.

We urge that you consider the Berkeley isolated load on a special or interim basis and that you give real consideration to the broader power supply problems.

Very truly yours,



P. T. Allen
Executive Vice President
and General Manager

sbd

Robert W. Williams, Jr.
President
Durington S C

John C. Anderson
Vice-President
Sumter S C

Robert B. Awbrey
Secretary-Treasurer
Bennettsville S C

P. T. Allen
Executive Vice President
and General Manager

SOUTH CAROLINA ELECTRIC & GAS COMPANY

POST OFFICE BOX 784

COLUMBIA, SOUTH CAROLINA 29218

T. C. NICHOLS, JR.
VICE PRESIDENT AND SENIOR EXECUTIVE
POWER REGULATORY AND SYSTEM OPERATIONS

May 4, 1979

Central Electric Power Cooperative, Inc.
Post Office Box 1455
121 Greystone Boulevard
Columbia, South Carolina 29202

Attention: Mr. P. T. Allen
Executive Vice President
and General Manager

Dear Pat:

George Fischer and I enjoyed meeting with you and Pinckney Roberts on May 1, 1979 to discuss CEPCO's response to the document presented to you on January 5, 1979.

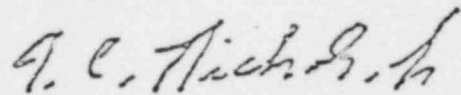
You stated that presently CEPCO did not consider joint ownership in an SCE&G fossil-fired plant in the mid 1980's to be economically advantageous.

This decision was based largely on the relatively small percentage of generation that would be required to serve CEPCO's load located on our system and other arrangements that CEPCO was pursuing at this time to provide a future power source for its customers. You indicated that CEPCO's action on this matter, at the present time, did not preclude the possibility of a renewed interest in such a relationship sometime in the future.

It was requested at the meeting that the Company consider a wheeling-type arrangement to supply Berkeley Electric Cooperative located on Johns Island commencing around September, 1983 when the contract with us expires.

Your request concerning this important matter is being reviewed.

Sincerely,


T. C. Nichols, Jr.

TCN:bwm

cc - Mr. George H. Fischer

bcc: Mr. G. C. Meetze