

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of:)

SOUTH CAROLINA ELECTRIC AND GAS)
COMPANY, et al.)

(Virgil C. Summer Nuclear Station,)
Unit 1))

Docket No. 50-395 GL

May 27, 1981

AFFIDAVIT OF JOHN C. RUOFF
CONCERNING THE FINANCIAL QUALIFICATIONS OF THE APPLICANTS

My name is John C. Ruoff and my professional qualifications can be found in Attachment A.

The purpose of this review is to examine Contention A2 of Intervenor Brett A. Burse in the above-captioned proceeding:

Contention A2: a) The Applicant lacks the financial qualifications necessary to safely operate and decommission the Summer station in compliance with NRC rules and regulations;

b) The sum allocated by the Applicant for the decommissioning of the Summer Plant is grossly inadequate and does not conform to the requirements of 10 CFR § 50.33(f).

As part of this review, I have also examined the Applicants' Response to Request for Additional Financial Information (December 31, 1980) and the NRC Staff's Safety Evaluation Report, Supplement 1, Section 20 (SSER).

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The Staff's Motion for Summary Disposition and the analysis of the financial qualifications of the Applicants, South Carolina Electric and Gas Company (SCE&G) and South Carolina Public Service Authority (SCPSC) is based on an analysis of data contained in the Applicants' Response submitted on December 31, 1981 (Staff Motion for Summary Disposition, pp. 9-10; SSER § 20). That analysis depends upon an assumption that the ability of the Applicants to raise funds in the past to construct the Summer plant is indicative of a continuing ability to raise funds.

However, the impact of many years of intensive construction expenditures, especially on Applicant SCE&G, has been to deplete SCE&G's ability to raise capital or to generate cash internally. SCE&G is in unstable economic condition and cannot provide reasonable assurance of the safe operation and decommissioning of the Summer facility.

In pre-filed testimony before the South Carolina Public Service Commission (SCPSC), SCE&G Vice-President for Finance, Oscar S. Wooten, makes clear the troubled state of that utility:

The coverage on bonded indebtedness is dangerously low, while the preferred coverage at year-end 1980 was insufficient to allow the Company to raise capital through the sale of new shares of preferred stock.

(Wooten, Prefiled Testimony, SCPSC Docket No. 81-72-E, p. 7.)

As of December 1980, fixed charge coverage stood at 2.21 times and Wooten predicts a decline to 1.71 times by year's end (Ibid., p. 15).

The Company is unable to raise new capital by selling common shares at book value (Ibid., p. 16). Moreover, Wooten argues, "The Company's capital structure is far from desirable based on current industry standards" (Id.). Common equity comprises only 33.81 percent of SCE&G's capitalization, contra an industry goal of 40 % (Ibid., p. 17). Without the rate relief sought before the SCPSC, Wooten describes selling the Company's

securities as "an impossible task" (Ibid., p. 18).

Despite the Staff's assertion that "(t)he Company and the Authority have demonstrated the ability to achieve consistent recovery of capital and operating costs for all other facilities they have constructed and operated" (SSER, p. 20-4) that is not true for SCE&G if Allowance For Funds Used During Construction (AFUDC), a non-cash accounting adjustment to income, is excluded. As Wooten notes:

If AFUDC is excluded from the Company's earnings available to the common stockholder . . . earnings per share would have a negative value. This means that the Company's cash earnings from operation will be deficient by 15 cents per share.

(Wooten, Prefiled Testimony, p. 21.)

Wooten details the developing financial status of the Company:

Unless we receive the increase requested, it is certain . . . that (1) the amount and quality of earnings will continue to decline, cash earnings per common share, excluding AFUDC, will drop to a negative 15 cents in 1981; (2) our rate of return, including return on equity, will continue to decline sharply; (3) our coverage of fixed charges will decline to a point where . . . we will also be unable to sell new bonds; (4) investor confidence in the financial integrity of the Company will continue to erode; and (5) . . . our customers will be subjected to the risk that our ability to provide reasonable and adequate service will be substantially lessened.

(Ibid., pp.26-27.)

The Staff's analysis depends upon historical circumstances continuing into the future, failing to recognize the impact of precisely those historical circumstances on changing the future and, thus, ignoring significant relevant circumstances. The Staff analysis especially depends upon the Order of the South Carolina Public Service Commission in Docket Nos. 79-196-E and 79-197-G, in which the SCPSC found inclusion of Construction Work in Progress and particularly that portion expended for Summer Plant "neither unreasonable nor excessive through the present time" (SCPSC Docket

Nos. 79-196-E and 79-197-G, Order No. 80-375 (June 30, 1980), pp. 30-31).

An appeal has been taken from that case to the Court of Common Pleas of Richland County (South Carolina Welfare Rights Organization, et al. v. South Carolina Public Service Commission, et al., Docket No. 80-CP-40-3433). Among the issues on appeal is the question of whether imprudent and inefficient investment in plant, as represented by a 43.5 % reserve capacity at the time and a projected reserve of almost 50 % if the Summer plant went into service in 1981, could be included in the rate base in CWIP. If that appeal is decided against defendant SCE&G, then the AFUDC non-cash income would be lost to the Company and no cash flow would be available from which to pay dividends. Indeed, even on paper SCE&G would be losing money on its operations.

Even without judicial requirement, there is some movement on the SCPSC to not allow SCE&G to earn what would otherwise be considered a fair return because of the excess capacity. SCPSC Commissioner Fred A. Fuller, Jr., moved for a lower return, because "I consider this level (of reserve capacity) too high" (Opinion of Fred A. Fuller, Jr., Concurring in Part and Dissenting in Part, Order, SCPSC Docket Nos. 79-196-E and 79-197-G, p. 94).

The most recent data submitted to the SCPSC shows that since the 1979 rate case SCE&G has again revised upwards its reserve capacity expectations upon licensing of Summer. SCE&G now concedes that, if the 600 MW load were added to the system in June 1982, the Company's reserve capacity would balloon to 59.4 % (SCPSC Docket No. 81-72-E, Answer to PSC Information Data Request, Number 1, Answer 22d), nearly three times the Company's target of 20%.

It cannot reasonably be assumed, as the Staff assumes, that the Summer plant "will reasonably be expected to qualify as 'property used and useful in providing retail electric service to the public'" (SSER, p. 20-4, fn. omitted) and, therefore, that the Summer plant will be included in the rate base or that the Company will be allowed to earn a return necessary to compete for capital funds based on a bloated rate base far in excess of SCE&G's customers' needs.

Regulatory law allows a fair rate of return only on property "used and useful" in rendering the public service. Denver Union Stock Yard v. United States, 304 U.S. 470, 58 S. Ct. 990, 82 L. Ed. 1463 (1938); Office of Consumers Council v. Public Utilities Commission, 391 NE 2d 311, 58 Ohio St. 2d 443 (1979); and, Francis X. Welch, Cases and Texts on Public Utility Regulation, Public Utility Reports, Inc., Washington, DC, 1961, p. 363. Regulatory law further assumes economical and efficient management of resources as a prerequisite for entitlement to a fair rate of return. Such woeful inability to match construction to demand as is evidenced by a projected reserve capacity of 59.4 % plainly fails any test of economy or efficiency.

By going beyond the Applicants' submittals to examine all relevant circumstances, it is plain that Applicant SCE&G is in far from the good financial condition found by the Staff. Instead, we find a Company in very bad financial shape--by the very description of its own Executive Vice-President for Finance--and capable of being restored only to sound economic health only by violation of the principles of regulatory law which govern the rate-making decisions of the SCPSC.

Thus, SCE&G has placed itself in a position in which it has difficulty generating cash internally and raising funds in the capital market. The creation of an unfunded reserve for depreciation (based upon a Negative Salvage Value approach) would, thus, only on paper provide assurance that the cash needed to safely decommission the plant would be available when required.

The assurances advanced by the Staff (SSER, p. 20-6) that reserves accumulated on a postulated facility life of 40 years are unfounded. Experience with large pressurized water reactors like Summer extends back only 10 years. Moreover, the accident at Three Mile Island suggests that plant life of as little as three months is a very real possibility. A funding strategy premised on a 40 year plant life only further endangers the ability of Applicants safely to decommission the Summer plant at the end of its useful life.

In addition, Applicants concede that they cannot present an "adequate figure" (Applicants Response, Questions 2 and 3) for the costs of decommissioning the Summer plant. No depreciation study for the plant has been conducted as yet. Thus, the range presented by Applicants of up to \$70 million is without basis.

I am informed that New York State has postulated a cost in excess of \$1 billion for decommissioning (see Intervenor Bursey's Summary of Contentions (April 7, 1981) in the instant proceeding). As yet, I have been unable to gain access to that document and would request the opportunity under 10 CFR § 2.749(c) to submit further factual support at a later time.

The Staff contemplates costs of decommissioning exceeding the postulated \$70 million figure set forth by Applicants. However, the Staff assumes that the Applicants would be able to generate sufficient funds from either internal cash sources or the capital market to cover those extra costs. As set forth above, however, that is not a reasonable expectation.

Moreover, the Applicants have failed to demonstrate and the Staff to consider the wholly expectable expenses of repair and/or replacement of the Westinghouse steam generators at the Summer plant. The generic problems of tube denting and cracking in Westinghouse steam generators, such as are utilized in the Summer plant, have been recognized and are being addressed by the Commission. That replacement of those generators at the Surry and Turkey Point plants has already been required, as well as extensive repairs at many other plants, argues that steam generator repair or replacement should be viewed as a normal maintenance expense rather than an unusual event.

The submittals of the Applicants regarding SCPSA date principally from over a year ago; the most recent financial statement pertains to the fiscal year ending June 30, 1980. In volatile economic times, it is difficult to evaluate the utility based upon such old information.

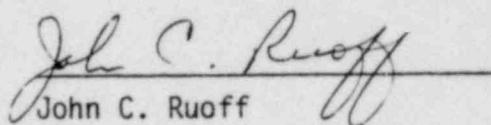
A thorough review of all relevant circumstances available reveals that the Applicants have not provided for the reasonable expected costs of operation of the Summer plant. They have underestimated the costs safely to decommission the plant. Moreover, the effort to finance construction of the Summer facility has undermined the ability of the Ap-

plicants to raise further funds in the capital markets.

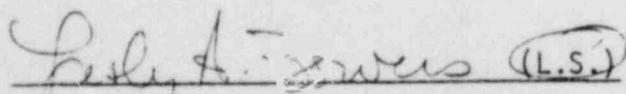
Applicant SCE&G has so over-built its generating capacity that revenues from sales are unable to support that debt structure and operating costs, except through accounting devices. Further, in over-building, SCE&G has demonstrated such imprudent and uneconomical management that it cannot be assumed that the Summer plant will be judged qualified to be included in the rate base when it is completed.

For all of these reasons, the Applicants do not have the financial qualifications necessary safely to operate and decommission the V.C. Summer Nuclear Station.

I affirm that the foregoing information is true and accurate to the best of my knowledge and belief.


John C. Ruoff

AFFIRMED and subscribed to before me
this 27 day of May 1981.


NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission expires: 1/29/90

ATTACHMENT A

PROFESSIONAL QUALIFICATIONS
JOHN C. RUOFF

My name is John C. Ruoff. My business address is P.O. Box 96, Jenkinsville, South Carolina 29065. I am self-employed as a consultant on research and management for a variety of community-based and non-profit organizations.

In 1979-80, I participated as a party of record in the hearings before the South Carolina Public Service Commission (SCPSC) on the application of South Carolina Electric & Gas Company (SCE&G) for a rate increase (SCPSC Docket Nos. 79-196-E and 79-197-G). In that capacity, I educated myself on the operations, management and finances of SCE&G. I am a party of record in the hearings on the most recent rate increase application of SCE&G before the SCPSC (SCPSC Docket No. 81-72-E). I have been consulted by and assisted counsel in preparing examination in proceedings involving Duke Power Company (SCPSC Docket No. 80-378-E, 1980) and Carolina Power & Light Company (SCPSC Docket No. 80-69-E, 1980).

I graduated from Seattle University, Seattle, Washington, with a B.A. in History in 1969. I received the A.M. and Ph.D. degrees in History from the University of Illinois at Urbana-Champaign in 1971 and 1976. I did advanced study in demography there.