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TRANSCRIBED VIDEO FILE

South Carolina Senate  
V. C. Summer Nuclear Project Review Committee  
October 25, 2017

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2 CHAIRMAN SETZLER: All right, if  
3 we could, let's call the V. C. Summer Nuclear  
4 Project Review Committee to order so we can go  
5 ahead and start. We have several members on the  
6 way. Senator Sabb has indicated he's en route.  
7 We also think Tom -- Senator Alexander is en  
8 route, and probably Senator Gregory. But we've  
9 got a lot to cover, so we're going to go ahead  
10 and start.

11 The first item on the agenda is  
12 the Office of Regulatory Staff overview  
13 presentation, and I believe, Ms. Edwards -- are  
14 you going to make that presentation, or you're  
15 going to direct that presentation? Okay. Hold  
16 on. Now try it.

17 MS. EDWARDS: Yes, sir.

18 CHAIRMAN SETZLER: Okay.

19 MS. EDWARDS: Thank you.

20 CHAIRMAN SETZLER: If you would,  
21 please, ma'am, state your full name for the  
22 record, and anybody that you're going to have  
23 make a presentation or answer any questions, we  
24 want them sworn. So if you'd raise your right  
25 hand, anybody that you've got planning on doing

1           that.

2                           MS. EDWARDS: Yes, sir. Nanette  
3 Edwards. I'm here on behalf of the South  
4 Carolina Office of Regulatory Staff.

5                           CHAIRMAN SETZLER: Okay.

6                           MS. EDWARDS: With me is -- I  
7 have -- I'm going to start with the far left. I  
8 have Shannon Hudson, our deputy chief counsel,  
9 and I have Dr. Douglas Carlisle, Director  
10 Anthony James, Director Jay Jashinsky, Director  
11 Chris Rozycki, Director Dawn Hipp, Director Tom  
12 Allen.

13                          CHAIRMAN SETZLER: Okay, thank  
14 you. Senator Massey, would you swear in any of  
15 them who are going to testify, please, sir?

16                          CHAIRMAN MASSEY: All right, so  
17 anybody who's going to be coming up to testify.  
18 Just you?

19                          MS. EDWARDS: Well, I believe I'm  
20 testifying, but should the need be there, I do  
21 plan to call upon them if I need to.

22                          CHAIRMAN MASSEY: How about  
23 everybody on the front row stand up? All right.  
24 Those of you who may give some testimony today,  
25 do you swear that the testimony you give will be

1 the truth, the whole truth, and nothing but the  
2 truth, so help you God?

3 MULTIPLE SPEAKERS: I do.

4 CHAIRMAN MASSEY: Mr. Chairman,  
5 they all indicated in the affirmative.

6 CHAIRMAN SETZLER: Thank you.  
7 Proceed on, Ms. Edwards.

8 MS. EDWARDS: Thank you. Well,  
9 first off, good morning, and thank you for the  
10 opportunity to be here to provide you an  
11 overview of our agency, the Office of Regulatory  
12 Staff. As I stated, my name is Nanette Edwards,  
13 and my title is deputy executive director. I  
14 report to Dukes Scott, the executive director.

15 The Office of Regulatory Staff is  
16 charged with representing the public interest  
17 before the Public Service Commission of South  
18 Carolina. Well, how is that defined in statute?  
19 The public interest is defined as a balancing of  
20 the concerns of the using and consuming public  
21 -- that's all customer classes -- with economic  
22 development -- and that includes job attraction  
23 and job development -- along with the --  
24 including in that balancing test is the  
25 preservation of the financial integrity of the

1 utility to include investment in and maintenance  
2 of the facilities that are necessary to provide  
3 reliable, high-quality utility services.

4 Now, before ORS was created by  
5 Act 175 in 2004, the utility regulation in this  
6 state was housed under one agency, and that's  
7 the Commission. And the Commission had the  
8 responsibility -- for example, if a  
9 water/wastewater utility filed for a rate  
10 increase, the Public Service Commission had the  
11 staff that would do the investigation, audit the  
12 books and records. They would send staff out if  
13 there was a need to investigate the plant and  
14 equipment.

15 They would present testimony  
16 before the Commission along with the utility  
17 applicant that was seeking the rate increase and  
18 any intervenors. They would present that  
19 testimony to the Commission, and the staff would  
20 also, if necessary to present their  
21 recommendations, they would have a proposed  
22 order. And then the Commission would render a  
23 decision. They would reach a decision that  
24 would establish the rates for that utility, and  
25 their mandate is to set just and reasonable

1 rates.

2 Now, after Act 175, what happened  
3 was, the staff functions were transitioned to  
4 ORS, and the Commission sits as the judge of the  
5 case. They have the responsibility to  
6 adjudicate the proceedings that come before  
7 them, and they are subject to the judicial code  
8 of conduct, meaning that they sit as judges.  
9 There's an ex parte prohibition in South  
10 Carolina that is very strong, and the purpose of  
11 Act 175, from my point of view, one of the  
12 purposes, was to ensure a fair and impartial  
13 hearing before the entity that's going to render  
14 the final decision. And that is a weighty  
15 decision because you're establishing just and  
16 reasonable rates for the customers.

17 So those staff duties came to  
18 ORS, and we have auditors. We have engineers on  
19 staff. We have an economist on staff. And  
20 today, as ORS, our duties are, we are a party to  
21 every single case with one exception, and what  
22 is that exception? Where a consumer has  
23 purchased a bundled or contract service from a  
24 telecommunications company, that complaint, if  
25 they have a complaint, is really between the

1 consumer and the telecommunications company. So  
2 we are not a party to that type of case.

3 But in every other situation, we  
4 are automatically a party. We have the same ex  
5 parte prohibition as anyone else, so we can't go  
6 to the Commission one-on-one and say,  
7 Commissioners, we would like you to adopt ORS's  
8 position. We can't do that and don't do that.  
9 We have the same rights and restrictions with  
10 regard to presenting our case before the  
11 Commission. We are obviously able to do cross  
12 examination. We withstand cross examination.

13 How do we interact with the  
14 Commission? As ORS, when we are presenting our  
15 position, whether it's through testimony or  
16 through a written report, through an allowable  
17 ex -- if we need to provide information to the  
18 Commission, we do have the opportunity, just  
19 like anybody else, to present our information  
20 through an allowable ex parte briefing, but we  
21 present our position in cases through testimony,  
22 through our proposed orders. And then if  
23 there's an appeal from that Commission decision,  
24 we also participate in those appeals as well.

25 So at this time, I have before

1       you a high-level organizational chart. We do  
2       have a much more detailed organizational chart,  
3       which I believe has been provided to staff. But  
4       for purposes of this overview, I've kept it high  
5       level, and I would like to, at this time,  
6       introduce to you the five directors over whose  
7       departments that I'm going to describe for you  
8       the different functions that ORS performs as  
9       part of our responsibilities under the General  
10      Assembly that have been assigned to us.

11                   And with that, let me start with  
12      Director Tom Allen. He is responsible for --  
13      there you are. Hey. Director Tom Allen is over  
14      Safety, Transportation, and Emergency Response.  
15      He's been with ORS more than ten years now, I  
16      believe, and he has been in several different  
17      departments; gained a great deal of experience.  
18      He is also our lead when we are called upon by  
19      EMD, and EMD stands for Emergency Management  
20      Division. So when we have an event, he is our  
21      lead for ESF-12, which is the restoration of  
22      energy systems.

23                   And with that, I also have  
24      Director Anthony James. He is over Energy  
25      Policy, which includes new nuclear, as well as

1 the State Energy Office. He is a licensed  
2 professional engineer in South Carolina.

3 I also have Director Chris  
4 Rozycki. He is the director of  
5 Telecommunications. He probably doesn't want me  
6 to say this, but he has more than 30 years'  
7 experience in telecommunications.

8 I also have with me Director Jay  
9 Jashinsky. He is a CPA. He is -- also got more  
10 than 30 years' experience.

11 I also have with me here today  
12 Director Dawn Hipp. She is over Utility Rates  
13 and Services. And she comes to ORS with a  
14 background in environmental regulation. She has  
15 been with ORS almost from the start, 13 years  
16 now at ORS.

17 And with that, let me start with  
18 Safety, Transportation, and Emergency Response.  
19 I mentioned to you a moment ago that ORS gets --  
20 is activated when there is, for example, a  
21 hurricane, a flood. We have seen an uptick in  
22 climate events these last couple of years, and  
23 when we started, January 1, 2005 -- that's when  
24 ORS opened its doors -- we had one employee that  
25 had EMD-type duties. But over time, with the

1 significant weather-related events that we've  
2 seen, we now have, out of our 71 permanent  
3 fulltime employees, we have some 20 employees  
4 that are designated with EMD-type duties for  
5 when they are activated.

6 Now, these employees have  
7 fulltime jobs, but when activated -- we have  
8 seen that the weather events that have come  
9 along, they last longer. We're called upon to  
10 man that ESF-12 desk for longer periods of time.  
11 We serve eight-hour shifts, and there are, of  
12 course, three shifts a day. So you can see why  
13 we've expanded the number of folks who will man  
14 those desks.

15 Now, ESF-12, what do we really do  
16 when there's an emergency response? We report  
17 to the EMD, to the Governor, and we do,  
18 basically, a coordination effort, identifying  
19 and assisting with the restoration of those  
20 damaged -- of the energy systems. So, for  
21 example, you probably saw in this most recent --  
22 the effects from Hurricane Irma, you know, how  
23 many outages are there, and yeah, as you see the  
24 number of outages trending down. So we monitor  
25 and report and coordinate, assisting the

1 utilities if they need certain resources so that  
2 they can get into the affected areas to restore  
3 the energy service, the service to the  
4 customers.

5 And so that's where ESF-12 really  
6 began, is manning that desk. But along the way,  
7 our role has expanded. And we are now also  
8 responsible for what we call the Fuel Plan, and  
9 what that means is that there be necessary fuel  
10 supplies along the evacuation route. So if you,  
11 for example, are leaving the hurricane coastal  
12 areas, that there be sufficient fuel supplies  
13 there, as well as for reentry. You want to make  
14 sure that the folks that need to get into the  
15 affected area to do their jobs have the  
16 necessary fuel supplies to be able to do that.

17 well, what that has done is,  
18 we've now developed relationships with those  
19 fuel stop owners -- the gas stations -- the  
20 petroleum pipeline operators, and distributors,  
21 and from that, we've leveraged those  
22 relationships so that when there's an event,  
23 we're able to call upon them to get information  
24 and share that information with the Governor,  
25 EMD, the General Assembly, whoever calls upon

1 us.

2 And with that, I would also  
3 mention very briefly that in 2016, the Colonial  
4 Pipeline had a disruption in Alabama. Well,  
5 that disruption affected gasoline supplies in  
6 the Southeast, including South Carolina. And  
7 then-Governor Haley called upon ORS to use those  
8 relationships that we had developed to assist  
9 with gathering of information as to the  
10 shortages with those gasoline supplies.

11 So while we do not have any  
12 regulatory oversight of petroleum pipelines, we  
13 do have this responsibility with regard to EMD  
14 that, when called upon, we will gather this  
15 information and share it with those that need to  
16 know.

17 And with that -- oh, I skipped  
18 ahead a little too fast. I mentioned we have no  
19 oversight with petroleum pipelines. However, we  
20 do have safety oversight over natural gas  
21 pipelines. And we coordinate with a federal  
22 agency called PHMSA, P-H-M-S-A. That's the  
23 Pipeline and Hazardous Materials Safety  
24 Administration. PHMSA provides training, so we  
25 have -- our safety inspectors are trained by

1 PHMSA in Oklahoma City, Oklahoma. It is a  
2 three-year process to become fully certified,  
3 and the only place to get that training is  
4 Oklahoma City, and you are tested before you can  
5 go to the next level.

6 So with regard to natural gas  
7 pipelines, we coordinate with PHMSA. We have a  
8 good relationship with them. Our scores for the  
9 State of South Carolina are good. We have a  
10 progress report score of 48 out of a possible  
11 50, but what that is is actually a review of how  
12 our state laws and enforcement stack up against  
13 the federal laws. What really, I think,  
14 reflects on the work that's done is the program  
15 evaluation score, and that's 109 out of a  
16 possible 110.

17 Now, I said safety. There's  
18 another element that -- or another program that  
19 we have, and that's Rail Safety. So we also  
20 have inspectors for rail safety in terms of  
21 track and operating practices. And in those two  
22 areas where we have a program, and other states  
23 do as well, we are also graded, and the State of  
24 South Carolina has ranked 4 for both of those  
25 programs. And what I mean by "track" is, it's

1 the inspection of the track. And what I mean by  
2 "operating practices," that's more the human  
3 element. Is the railroad following the  
4 processes and procedures with regard to drug  
5 testing? Are they, in a normal routine  
6 environment, operating in conformance with the  
7 requirements that they have?

8 And that's one -- those are the  
9 two safety areas that we have. We also have, I  
10 mentioned before, Transportation, and  
11 Transportation, we have the responsibility for  
12 enforcement of the Commission orders, rules, and  
13 regulations with regard to motor carriers,  
14 household good movers, and movers of hazardous  
15 waste for disposal. So those are -- that's kind  
16 of the overview.

17 More recently -- I want to say  
18 2015 -- we have this new area called  
19 Transportation Network Companies. You've heard  
20 of them, Uber and Lyft. And when the General  
21 Assembly passed legislation that set parameters  
22 for their operation within the State of South  
23 Carolina, the General Assembly put within ORS  
24 the responsibility of that oversight.

25 So we reviewed their request to

1 operate in the state. We do almost like a fit,  
2 willing, and able-type review, and then the area  
3 that is probably of most importance is  
4 insurance. Do these motor carriers or TNCs, do  
5 they have the proper level of insurance when  
6 that passenger gets in the back of that vehicle?  
7 And we do have enforcement. We have law  
8 enforcement officers. We do -- we are notified  
9 by the insurance companies if there is a lapse  
10 or about to be a lapse in insurance coverage and  
11 then take necessary enforcement actions at that  
12 time.

13 So that takes us through the  
14 first department. Energy Policy is the second  
15 area that I wanted to cover with you today, and  
16 it's comprised of two divisions. I mentioned  
17 new nuclear, but also the State Energy Office.  
18 Under Act 121, which was the South Carolina  
19 Restructuring of 2014 that broke up the Budget  
20 and Control Board, the Energy Office was  
21 transitioned to ORS, and with that, there was,  
22 we understood, the responsibility to focus on a  
23 State Energy Plan, to develop and implement a  
24 State Energy Plan for South Carolina. It is a  
25 statutory requirement to have one.

1                   we also inherited, as part of  
2                   that, the Radioactive Waste Program. This is  
3                   the low-level radioactive waste that's disposed  
4                   of at the Barnwell, South Carolina, site. The  
5                   land is actually owned by South Carolina. Chem-  
6                   Nuclear leases it. So that was a function that  
7                   was actually performed by the Energy Office when  
8                   it was under the Budget and Control Board, but  
9                   we also inherited that as well.

10                   Then, of course, you have the Lee  
11                   Nuclear site for preconstruction activities and  
12                   the V. C. Summer site in Jenkinsville, South  
13                   Carolina, for new nuclear.

14                   Turning to the State Energy  
15                   Office, their activities are varied, and they do  
16                   a significant amount of work. I'm going to  
17                   leave the State Energy Plan for the moment and  
18                   go straight to -- they provide technical  
19                   assistance. You may see them sometime at your  
20                   Sunday school. They will do a great deal of  
21                   outreach talking about energy efficiency and  
22                   renewables and the opportunities that are  
23                   available in South Carolina.

24                   They provide financial  
25                   assistance, and let me caveat that with, the

1 financial assistance they offer is really  
2 federal funds that they administer. These are  
3 funds that have come to them through typically  
4 the Department of Energy, and they're low-  
5 interest loans and/or possibly a loan grant to  
6 enable the qualifying applicants to do energy  
7 retrofits so that they improve their energy  
8 efficiency. It could be a conversion from  
9 diesel to natural gas, so alternative clean  
10 transportation, or it could be an investment in  
11 renewables, installing solar panels. So they do  
12 have that, but the Energy Office itself is  
13 funded almost primarily through federal dollars,  
14 that, by law, they cannot accept state  
15 appropriations.

16 And with that, I already  
17 mentioned, they promote clean transportation.  
18 They do work in conjunction with the Palmetto  
19 Clean Cities program, so you might see them out  
20 at Whole Foods or at a library where you can  
21 look at all the different cars, the Teslas, the  
22 LEAFs, and you can see the different  
23 opportunities that are available for consumers  
24 to purchase alternative fuel vehicles today.

25 They also act as an energy data

1 clearinghouse. They have a great deal of  
2 information on their website. Most recently,  
3 they've added another website called  
4 solar.sc.gov. That's a one-stop shop for those  
5 that are interested in solar. If you're  
6 interested in statistics or information about  
7 how to participate, they also have a nice  
8 pamphlet that advises consumers before they go  
9 make that purchase or execute that lease to  
10 invest in solar panels on their roof or  
11 business.

12 Now, I did mention the State  
13 Energy Plan. The State Energy Plan began with  
14 Phase I, which is just literally the collection  
15 of data as to how we provide or how we generate  
16 energy in South Carolina today. You know,  
17 nuclear, coal versus natural gas. How do we  
18 look today? That was phase 1, and we gathered  
19 that data from all the different energy  
20 suppliers, whether they were regulated by the  
21 Commission or not.

22 And then phase 2 was a very large  
23 and diverse group of stakeholders. We met with,  
24 I want to say, 130 different professionals  
25 representing some 60 different organizations.

1 we had public engagement sessions throughout the  
2 state. We also did surveys. And so taking all  
3 that information together, the question we moved  
4 onto from phase 1 was, Okay, well, we know where  
5 we are. Where do we want to be? What do we  
6 want South Carolina to look like in the next  
7 five to ten years?

8                   And taking these 80 -- there was  
9 80 recommendations proposed, we distilled it,  
10 with the assistance of the Steering Committee,  
11 to eight. And those eight top-tier  
12 recommendations were presented, along with the  
13 draft energy plan, to the Public Utilities  
14 Review Committee in April of 20 -- April of this  
15 year.

16                   And with the support of PURC, we  
17 have moved forward into phase 3, and phase 3 is  
18 taking those eight top-tier recommendations, and  
19 we've formed study committees. Those study  
20 committees have met, and again, I do want to  
21 emphasize that these committees have a diversity  
22 of stakeholders. It's not just the utilities.  
23 I know we have had significant input from  
24 Coastal Conservation League, Conservation  
25 Voters, on the ACT 236 Committee. Those that

1 are interested in solar leasing have been very  
2 interested in participating in, where do we go  
3 with Act 236 next? And I probably should define  
4 Act 236. Act 236 is the Distributed Energy  
5 Resource Program Act. A lot of people call it  
6 the solar bill. Basically, it's the act that  
7 enabled third-party solar lessors to operate in  
8 the state of South Carolina.

9 And with that, I've already  
10 touched on Financial Assistance. This slide  
11 just gives you an overview of the types of  
12 financial assistance that are available and who  
13 can qualify.

14 Telecommunications -- this is the  
15 third department that I was going to cover with  
16 you. This -- Telecommunications is largely  
17 deregulated. There is price regulation for the  
18 telephone -- what I would call the traditional  
19 telephone utilities, and those entities, they do  
20 have some price regulation, and there is  
21 financial support through the South Carolina  
22 State Universal Service Fund. And what the  
23 South Carolina State Universal Service Fund does  
24 is, it ensures that we have affordable rates in  
25 rural areas. And that is one of the main duties

1 that Telecommunications has is, they oversee the  
2 South Carolina USF Fund, but also, perhaps not  
3 as well known, the Dual Party Relay Fund.

4 Now, the Dual Party Relay Fund  
5 was established in the early 1990s, and that  
6 fund is designed to provide a relay service, a  
7 relay operator, and specialized  
8 telecommunications to assist the deaf, those who  
9 have hearing and/or speech impairments,  
10 communicate. And that's the major program or  
11 components of the Dual Party Relay Fund. But it  
12 also provides other support. It supports the  
13 closed captioning of the General Assembly. It  
14 also provides real-time closed captioning for  
15 local news broadcasts in different markets  
16 within the state of South Carolina.

17 So Audit, this is the -- our  
18 Audit Department is integral because for every  
19 filing before the Commission, we have our Audit  
20 Department review that filing to the extent it  
21 -- you know, if it affects rates, whether it's a  
22 fuel case, a rate case, our Audit Department is  
23 part of every single one of those reviews. And  
24 they actually go out to the company site. They  
25 will examine the books and records, and they

1 will make recommendations. They also work hand-  
2 in-hand with the Utility Rates and Services  
3 Department, so when you see a rate case, you  
4 will see ORS present a testimony, both from our  
5 Audit Department and from our Utility Rates and  
6 Services Department.

7 Now Audit -- that is the primary  
8 function of the Audit Department. There are  
9 other functions that they perform.

10 Specifically, they provide support to the  
11 Telecommunications Department and the Energy  
12 Office. I mentioned that there's financial  
13 assistance, and those are federal dollars,  
14 through the Energy Office. Well, with federal  
15 dollars comes reporting requirements. And so  
16 the Audit Department provides support to the  
17 Energy Office in the compliance aspect of that  
18 federal funding.

19 The Telecommunications  
20 Department, to the extent there's regulatory  
21 fees, the Audit Department will help  
22 Telecommunications Department, you know, make  
23 sure that there's proper compliance with regards  
24 to that reporting.

25 And then last, there is a

1 proceeding before the Public Service Commission  
2 every year on the allowable operating costs for  
3 Chem-Nuclear that operates that site in  
4 Barnwell, South Carolina.

5 And with that, I'm going to close  
6 with Utility Rates and Services. Utility Rates  
7 and Services has what you would probably  
8 consider the traditional regulatory authority,  
9 or responsibilities. I mentioned earlier that  
10 they participate in any fuel cases, any cases  
11 involving -- that affect the rates that are  
12 charged, along with the Audit Department.

13 well, what do we regulate? The  
14 Commission and ORS, there is regulatory overview  
15 or responsibility for investor-owned utilities,  
16 and by that, I mean electric, gas,  
17 water/wastewater. These are utilities that are  
18 not municipal, not publically owned and operated  
19 utilities.

20 So what do we not have  
21 jurisdiction over? We have no jurisdiction over  
22 Santee Cooper. We have no jurisdiction or no  
23 rate-setting authority over municipal systems,  
24 whether it's water/wastewater, gas, and no rate-  
25 setting authority with the Electric Co-ops. The

1 one area that the Commission does have  
2 jurisdiction over is if there is a territorial  
3 dispute between an electric co-op and an  
4 investor-owned utility, that territorial dispute  
5 would go before the Commission.

6 This department also has  
7 responsibility, for example, with utility  
8 siting, and what I mean by that is, if there is  
9 a generation plant that's going to be sited in  
10 South Carolina that's more than 75 megawatts,  
11 that has to go before the Commission. And we  
12 would present -- this department would present  
13 testimony on that utility siting. It also  
14 includes transmission siting. But again, Santee  
15 Cooper is exempt from that, so that does not  
16 include any siting of generation plant by Santee  
17 Cooper.

18 Act 236 -- I mentioned it  
19 earlier. With the passage of Act --

20 CHAIRMAN SETZLER: Senator from  
21 Orangeburg.

22 SENATOR HUTTO: Does that include  
23 -- we've got all these solar farms going up now.  
24 Do you -- is your siting -- come under that?

25 MS. EDWARDS: No, not unless it's

1 a more than 75 megawatts.

2 SENATOR HUTTO: Oh, okay, so --

3 MS. EDWARDS: So if it's 75  
4 megawatts or more, it would go before the  
5 Commission, but if it's like a 10 megawatt, 20  
6 megawatt, no.

7 SENATOR HUTTO: All right, so  
8 your oversight is triggered by the amount of  
9 electricity that it would generate.

10 MS. EDWARDS: Yes, sir. It's a  
11 statute -- statutory -- it's in the definition  
12 under 58-33-10, I believe, but I can double-  
13 check that cite. But, yes, it's 75 megawatts or  
14 more. It's -- so more -- actually, let me  
15 rephrase that. It has to be more than 75  
16 megawatts.

17 SENATOR HUTTO: And when you do  
18 your review to determine siting, is it a  
19 determinant based on whether it's  
20 environmentally suitable, whether it's in the  
21 right community, or --

22 MS. EDWARDS: There are other  
23 entities that, by statute, are automatic  
24 parties, and that includes DHEC and -- I want to  
25 say DNR. There's other state agencies that by

1 law, by statute, they are automatically party to  
2 the case. Where ORS steps in and what we would  
3 do is, Is there a need for the generation? You  
4 know, what's more on the economic side? But  
5 certainly, the utility does have to show need,  
6 and there is the opportunity for intervenors and  
7 these statutory parties to bring up issues of  
8 that nature.

9 SENATOR HUTTO: Except Santee  
10 Cooper because the State --

11 MS. EDWARDS: Yes, sir, except  
12 Santee Cooper.

13 SENATOR HUTTO: All right, so if  
14 it's a privately-owned utility greater than 75  
15 megawatts, they've got to come before you.

16 MS. EDWARDS: Right.

17 SENATOR HUTTO: If it's anything  
18 less than that, they don't have to come before  
19 you, or if it's Santee Cooper, they don't have  
20 to come before you.

21 MS. EDWARDS: That's correct.

22 CHAIRMAN MASSEY: Just to follow  
23 up on that, what do they have to show -- if  
24 SCANA or Duke wants to build a new generation  
25 facility --

1 MS. EDWARDS: Right.

2 CHAIRMAN MASSEY: -- what are  
3 they going to have to -- what's the burden?  
4 what do they have to show in order to get  
5 approval?

6 MS. EDWARDS: The burden is on  
7 the utility under that statute, just regular  
8 utility siting, and there are several items that  
9 they have to include in their application. But  
10 in general, that there is a need for the siting,  
11 that -- I do -- when they come before us, they  
12 also show that the form of generation that  
13 they've chosen is -- that there's good reason  
14 for why they chose nuclear, say, versus natural  
15 gas.

16 I can point you to a case  
17 recently. When Duke came in for its siting of  
18 its natural gas plant, for example, the Coastal  
19 Conservation League intervened, and the question  
20 on the table is, they, the Coastal Conservation  
21 League, felt that what the natural gas plant --  
22 you know, could it be offset with, for example,  
23 have solar panels as well?

24 So it's the need for the  
25 generation, the type of generation that would be

1 the area that the Commission would ultimately  
2 have to decide whether or not to grant the  
3 utility's request.

4 CHAIRMAN MASSEY: Is this a long-  
5 standing authority that the Commission has had?

6 MS. EDWARDS: Yes, sir.

7 CHAIRMAN MASSEY: Has the  
8 Commission ever said no?

9 MS. EDWARDS: To my knowledge,  
10 while I've been at ORS, 2005 forward, no, not to  
11 my knowledge. Now, that -- I can check behind  
12 me, if I may, and see if anybody recalls before  
13 2005?

14 CHAIRMAN MASSEY: No. And so  
15 here's what I'm getting at. Is the burden on  
16 the utility such that -- the statutory-imposed  
17 burden on the utility such that if they ask for  
18 it, they're going to get it every time?

19 MS. EDWARDS: Well, I definitely  
20 would say that if -- they do have a burden to  
21 show the Commission that, yes, they have a need  
22 for it. To the extent that there has been any  
23 dispute, you know, it is difficult, Senator  
24 Massey, I think, for someone like an intervenor  
25 other than ORS to mount a opposing argument. I

1 think you'd have to have good experts to be able  
2 to mount an opposing argument.

3 CHAIRMAN MASSEY: And this gets  
4 into something I want to ask you later on, but  
5 since we're on it now, is ORS statutorily  
6 conflicted to the point that ORS really isn't  
7 going to be able to make an argument against  
8 that type of thing?

9 MS. EDWARDS: Well, before the  
10 most recent case that we've been involved in,  
11 which is, obviously, the Jenkinsville case, I  
12 would have said that we were able to balance.  
13 What I've seen since the building of the new  
14 nuclear units in Jenkinsville is, where we were  
15 put in the position of looking at the financial  
16 -- preserving the financial integrity of the  
17 utility versus the interests of the consumers,  
18 and in that case, it was definitely difficult to  
19 serve two masters. So in that case, I think it  
20 was very difficult.

21 When we had the original base  
22 load case back in 2008, I mean, Senator Massey,  
23 there was no -- the only opposition was for  
24 those that are opposed to nuclear generation.  
25 We had outside experts. We looked at it

1       closely. There was a need for the generation.  
2       we had an expert that looked at that load growth  
3       as well as forms of generation. Was nuclear the  
4       right choice at that time? So that's a long-  
5       winded answer to say, we thought -- you know, if  
6       we had seen something different, and if those  
7       outside experts had told us no, certainly we  
8       would have taken that position before the  
9       Commission. We literally handed over to them  
10      the application and the Base Load Review Act.  
11      That's how we formed the position that we did.  
12      We didn't tell them what to come back or we  
13      didn't tell them to give us --

14                   CHAIRMAN MASSEY: Sure.

15                   MS. EDWARDS: -- you know, give  
16      us a predetermined answer. We did not do that.

17                   CHAIRMAN MASSEY: Well, and I'll  
18      let you finish your presentation because I've  
19      got some more questions for you about the Base  
20      Load Review Act and its impact and how it's been  
21      implemented and those sorts of things, but I  
22      want to allow you to finish before I get into  
23      that. But one of the -- well, and there are a  
24      few other things I want to ask you about as  
25      well, but I'll let you finish.

1                   CHAIRMAN SETZLER: Senator from  
2 Richland, and then the Senator from Orangeburg.

3                   SENATOR SCOTT: Thank you, Mr.  
4 Chairman. Ms. Edwards, I wondered if you maybe  
5 could step backwards for just a minute because  
6 the william states Lee, three nuclear generating  
7 station --

8                   MS. EDWARDS: Yes.

9                   SENATOR SCOTT: -- application  
10 applied for in '07, SCANA in '08. Westinghouse  
11 is the supplier in both cases, \$11 million. Did  
12 the william states part -- were they completed?

13                  MS. EDWARDS: The Duke station in  
14 Gaffney --

15                  SENATOR SCOTT: The Duke station  
16 --

17                  MS. EDWARDS: Yeah.

18                  SENATOR SCOTT: -- up in Gaffney,  
19 in Cherokee County.

20                  MS. EDWARDS: That, Senator  
21 Scott, they applied for preconstruction, and  
22 there's no dollars that have --

23                  SENATOR SCOTT: Been spent yet?

24                  MS. EDWARDS: No -- well, they  
25 have not -- the preconstruction activities, all

1 they do with that application is, they get  
2 permission from the Commission to preserve the  
3 nuclear option or to pursue a nuclear option.  
4 Any dollars that they have spent -- and they  
5 have spent dollars, Duke has. They just haven't  
6 recovered them.

7 They have spent, at this  
8 juncture, just over half a billion. They're at,  
9 like, around 540 or over 500 million. But those  
10 dollars have not been recouped because under the  
11 preconstruction portion of the Base Load Review  
12 Act, they would have to come before the  
13 Commission to, through a rate case or -- to  
14 recoup those dollars. And as we stand here  
15 today, there is a Commission order that limits  
16 the amount that they were supposed to spend. It  
17 set a cap on the amount of allowed spending.

18 So when the utility does choose  
19 to come back to the Commission, there is no  
20 predetermination of the dollars spent  
21 themselves. So if they come in, you can  
22 challenge individual cost items under this  
23 section of the Base Load Review Act.

24 SENATOR SCOTT: Now, they've  
25 applied for both construction and operation in

1 '07, so how long is this application good for,  
2 and do you have to come back and review any  
3 portion of the application?

4 MS. EDWARDS: They --

5 SENATOR SCOTT: For any change of  
6 course, based on statute and --

7 MS. EDWARDS: They did come in  
8 for an amendment to their original  
9 preconstruction order. I want to say it was,  
10 like, 2011.

11 SENATOR SCOTT: Okay.

12 MS. EDWARDS: And when they did  
13 that, they sought an increase to the amounts of  
14 spend and to the time, but that was 2011, and  
15 today is 2017, so that time period took them  
16 through 2012, and the amount of spend was, I  
17 want to say, about 120 million. So if they were  
18 to come back before the Commission, they have  
19 gone above what the Commission originally  
20 ordered.

21 SENATOR SCOTT: So in essence,  
22 the \$11 billion that they estimated to build, I  
23 guess, same, similar-type nuclear reactors,  
24 1,117 megawatts? Is that similar to the same  
25 thing that was built at V. C. Summers?

1 MS. EDWARDS: They were, but at  
2 this stage, they do have an NRC combined  
3 operating license, but it is my understanding  
4 that Duke does not intend to move forward at  
5 this time. I believe in North Carolina, they  
6 have filed to seek 75 percent of the  
7 preconstruction costs. South Carolina would  
8 only have 25 percent of that because that's the  
9 -- when you look at Duke's system, we have  
10 allocated 25 percent to us and 75 percent to  
11 North Carolina.

12 SENATOR SCOTT: Because -- and my  
13 last question --

14 CHAIRMAN SETZLER: Yes, sir.

15 SENATOR SCOTT: -- and we'll move  
16 on. Because what I'm trying to figure out, if  
17 they came in '07 and said \$11 billion, it makes  
18 sense to build two reactors. When SCANA and  
19 Santee Cooper decided that number was half of  
20 that amount, I mean, at what point do we look at  
21 whether or not the actual plan and the dollars  
22 that came before y'all really made sense because  
23 Duke came in '07. The application for SCANA  
24 came in 2008.

25 MS. EDWARDS: Okay.

1                   SENATOR SCOTT: I mean, either  
2                   the numbers made sense to build the same two  
3                   reactor by the same supplier, or the numbers  
4                   didn't make good sense at all because I -- the  
5                   original question was, Senator Massey, Is it an  
6                   automatic when they come back to get money, or  
7                   whether or not the actual figures they put  
8                   before y'all were actually good figures or just  
9                   something that was just being pulled out of the  
10                  air?

11                         Because all I've heard over and  
12                         over again is, Westinghouse didn't do this.  
13                         Westinghouse didn't do that. But then now, I'm  
14                         looking at, Duke says it's going to be \$11  
15                         billion to do it, and I think overall, I think  
16                         when SCANA started, it was like 5 or \$6 billion.  
17                         Now it's 9.3, and we still need some more money,  
18                         and adding the other \$2 billion, we're going to  
19                         be pretty close to what Duke said it was going  
20                         to cost anyway to build the reactors, whether or  
21                         not somebody was kind of snowballing us all the  
22                         way through it when we knew from the very  
23                         beginning what it actually was going to cost to  
24                         build those reactors.

25                         MS. EDWARDS: Senator Scott, I

1 now better understand your question. There are  
2 a couple of things. I need to check the date to  
3 see if Duke actually filed for their  
4 preconstruction in 2007. I need to check that  
5 date, but --

6 SENATOR SCOTT: It's December 13,  
7 2007.

8 MS. EDWARDS: Okay.

9 SENATOR SCOTT: That's what the  
10 Google says.

11 MS. EDWARDS: That's what Google  
12 says? All right.

13 SENATOR SCOTT: And SCANA is  
14 March 2008.

15 MS. EDWARDS: But the other part  
16 of that is, they came in for preconstruction,  
17 and they didn't have an EPC contract. In fact,  
18 today, they still don't have an EPC contract.

19 The other point I would make is  
20 that Duke was building it without -- or they  
21 were looking at whether or not to move forward,  
22 and when you look at SCE&G, remember, their  
23 number is lower because they were in partnership  
24 with Santee Cooper. So they were looking, even  
25 on a gross construction cost, for SCE&G, it was

1           6.3 billion, for SCE&G in their 2008 -- well,  
2           the Commission's order in 2009 was 4 1/2 billion  
3           in 2007 dollars, and 6.3 billion in gross  
4           construction costs.

5                         SENATOR SCOTT: Well, I'm pretty  
6           sure -- and I don't mean to stop you. I'm  
7           pretty sure if they came in with six, the other  
8           question is, how in the world can Duke -- Duke  
9           estimated 11. You're at six. Where's the other  
10          money going to come from? And I'm more than  
11          sure they gave you the other supplemental  
12          dollars it was going to take to build it. I'm  
13          sorry to cut you off.

14                        MS. EDWARDS: Yeah, so what I'm  
15          trying to say is, it would be six plus the --  
16          the six -- it would be the amount that SCE&G had  
17          plus Santee Cooper, which, back then, I mean,  
18          it, what, another 45 percent to -- it was  
19          probably what, Anthony? About -- the original  
20          project cost for Jenkinsville was probably about  
21          what, 8, 9 billion?

22                        MR. JAMES: Close to ten.

23                        MS. EDWARDS: Close to ten? So  
24          what I'm trying to say is, in order to do an  
25          apples to apples comparison, you've got to look

1 at -- if you're going to say 11 billion for  
2 Duke, who was, at that time, the one moving for  
3 -- potentially looking at it, you have to also  
4 look at the fact that Santee Cooper and SCE&G --  
5 you have to look at it whole number to whole  
6 number is I think what I'm trying to say.

7 SENATOR SCOTT: Well, I'm -- my  
8 last question. I'm just trying to make sure  
9 that overruns didn't get me to nine, and in the  
10 end, they say it's -- they think it's going to  
11 be 13 point --

12 MS. EDWARDS: Sir?

13 SENATOR SCOTT: 13.9, which  
14 simple means the losses and all the other change  
15 orders you would have. I mean, to me, if Duke  
16 says it's 11, SCANA's saying it's six,  
17 somebody's numbers can't be real if you're  
18 building the same reactor --

19 MS. EDWARDS: Right.

20 SENATOR SCOTT: -- and using the  
21 same supplier. Thank you, too.

22 CHAIRMAN SETZLER: Okay. Senator  
23 from Orangeburg.

24 SENATOR HUTTO: I want to get  
25 back to what Senator Massey was asking about.

1           So have -- legislatively, statutorily, have we  
2           set this up to be a rubber stamp in the sense  
3           that the showing of need, if that's the word  
4           that you use -- they've got to show a need. Is  
5           the need based on, we just need more capacity,  
6           or, we need to make more profits, or, we -- what  
7           need is it that they're trying to satisfy when  
8           they show need?

9                           MS. EDWARDS: Need to meet load  
10           growth, need to meet -- they need -- you have to  
11           have sufficient generation so that at the  
12           hottest day of the year or the coldest day of  
13           the year, that you can meet peak demand. You  
14           don't want to have -- so --

15                          SENATOR HUTTO: Do they have to  
16           be able to generate it, as opposed to buy it off  
17           the grid or allow the solar companies to sell  
18           back to the grid? They have to be able to  
19           generate the need?

20                          MS. EDWARDS: They don't have to  
21           generate -- to your point, they can do purchase  
22           power, but they want to have enough so that they  
23           also have a reserve margin. And so when you  
24           come in and look at this question of need, you  
25           know, they do go into issues of, what's your

1 projected load growth? What's the amount of  
2 your reserve margin once you -- if you were to  
3 be granted this additional generation?

4 So to answer your question  
5 directly, those are some factors that go into  
6 this process, but, Senator Hutto, if I may, does  
7 anybody -- Dawn, Dawn, do you have anything to  
8 add or --

9 MS. HIPPI: No. I mean, I would  
10 say that public convenience and --

11 MS. EDWARDS: You might want to  
12 come up.

13 MS. HIPPI: -- and necessity isn't  
14 --

15 CHAIRMAN MASSEY: Can you come up  
16 to the microphone?

17 MS. HIPPI: -- specifically  
18 defined in the law, in the siting law. There's  
19 not a specific set of findings that need to be  
20 made.

21 SENATOR HUTTO: Right, but SCE&G  
22 doesn't just sell to SCE&G customers. I mean,  
23 they can sell to municipalities. They could  
24 sell to co-ops. They can sell onto the grid. I  
25 mean, people from other states can buy. So when

1       you show that there's a need for additional  
2       capacity, I'm just wondering whether that need  
3       is based on any sort of, they see a profit  
4       margin in their need versus their customers will  
5       be able to flip a switch and electricity won't  
6       come on if they don't do it.

7                   I'm just trying to figure out  
8       what -- because the PSC is sitting there, and  
9       they're going to show need, and to his point, if  
10      all you've to show is, we say we need it, and  
11      who's to say you don't, have we just set up the  
12      standard so low that really, the review is not  
13      as meaningful as it might be if the standard  
14      that, I guess, we probably set, whatever the  
15      definition of "need" is -- you follow what I'm  
16      saying? Okay.

17                   MS. HIPPE: Yeah, I mean, the  
18      statute indicates a basis for the need for the  
19      facility. That's really the finding that the  
20      Commission needs to make. We just did a siting  
21      case with SCE&G for transmission, and what they  
22      demonstrated on the transmission siting was a  
23      reliability issue that could occur in 2019. So  
24      what you'll see is a reliability issue due to  
25      load growth that needs to be remedied in some

1 method and then the options. They've got to lay  
2 out, in their siting case, the options that they  
3 had to pick from and why they chose the option  
4 that they did to present to the Commission.

5 CHAIRMAN SETZLER: Would you  
6 slide the mic in front of you please?

7 MS. HIPPI: Oh, I'm sorry.

8 CHAIRMAN SETZLER: There you go.

9 MS. HIPPI: That's part of the  
10 application process. That's part of the  
11 question-and-answer that ORS does specifically  
12 with the utility to identify the need and what  
13 options they had to choose from.

14 SENATOR HUTTO: And the word  
15 "siting" to me implies a physical location. Is  
16 that part of the analysis, too -- we're going to  
17 locate in Cherokee versus Fairfield -- that type  
18 of siting, or is it just that we need to site a  
19 new facility in South Carolina?

20 MS. HIPPI: It is the location  
21 that they chose. They do need to support that.  
22 And it isn't from an economic perspective we  
23 chose it in Aiken County versus another county.  
24 It usually has to do with the location, that  
25 they need -- the co-location of the plant, the

1 environmental compatibility of that area.

2 SENATOR HUTTO: But it also would  
3 be where they can get their -- I mean, if  
4 they're going to use coal, they need to be on a  
5 rail line.

6 MS. HIPPI: Correct.

7 SENATOR HUTTO: And if they're  
8 going to use natural gas, they probably need to  
9 be on a pipeline.

10 MS. HIPPI: Right. The economics  
11 of the siting, where they choose to locate are  
12 definitely a factor that they present and we  
13 review.

14 SENATOR HUTTO: So when they came  
15 before you to site the facility in Fairfield, my  
16 understanding that basically nobody opposed,  
17 other than people that just don't like nuclear  
18 power in general, that nobody really opposed it  
19 at that time.

20 MS. EDWARDS: That is correct. I  
21 mean, I did hear just -- Senator Hutto, I did  
22 hear -- I think there were, obviously,  
23 protestants, and I did hear an individual speak  
24 to the House committee that said that he had  
25 provided information, but the way it works with

1 us is, we submit prefiled testimony, and we  
2 don't know what those who offer protestant  
3 testimony -- we only have that before the  
4 hearing. And so we did not have anything that  
5 came before us or our experts that would have,  
6 in essence, changed our position between the  
7 time we filed our prefiled testimony and stood  
8 for cross-examination at the hearing.

9 SENATOR HUTTO: But does PSC have  
10 to make a determination that it makes financial  
11 sense either to the ratepayers or the investors?  
12 Do they have to make that type of finding, or  
13 just that there is a need for more electricity  
14 to be produced?

15 MS. EDWARDS: Economics is  
16 definitely part of their decision. I recall  
17 reading not long ago the original Commission's  
18 base load order, and, I mean, they looked at  
19 things about, you know, what would -- if --  
20 looking ahead, if you had carbon regulation, and  
21 at that time, people were talking about a  
22 possible carbon tax. So you have to kind of  
23 factor in, what are the possibilities that are  
24 coming down road? But it is definitely, in my  
25 opinion, an economic decision as well because

1           they look at, if natural gas had been at  
2           different prices, you know, we might have had a  
3           totally different outcome.

4                         SENATOR HUTTO: I guess what I'm  
5           ultimately getting at, did they consider what  
6           the impact's going to be to the ratepayer,  
7           thinking that, based on all the testimony we've  
8           got now, a ratepayer in 2020 is going to have a  
9           lower electric bill with this nuclear facility  
10          than if we say, No, you can't site that. You  
11          need to build another coal plant. You need to  
12          build another gas plant. You need to buy off  
13          the grid. You need to go solar.

14                        MS. EDWARDS: Right.

15                        SENATOR HUTTO: Do they look at  
16          the impact on the ratepayer?

17                        MS. EDWARDS: My recollection  
18          from -- and I'm drawing on -- keep going back to  
19          the base load case, but there was a capital cost  
20          schedule that showed the rate impacts each year  
21          projected -- and, of course, it's a forecast --  
22          going out, what the impact was going to be as  
23          you went forward. And, you know, the  
24          anticipation was, once you -- assuming the  
25          plants were built on time, on schedule, and on

1 budget, you would have had -- you would have  
2 known, okay, by April 2016, the first unit was  
3 coming onboard, and you had an understanding of  
4 what the impact would be.

5 But I don't think that, to your  
6 point -- I'm trying to recall -- I don't recall  
7 that they have extensive testimony on what the  
8 dollar amount would be if, for example, in  
9 today's world, there was going to be building of  
10 a new nuclear -- not new nuclear, but, let's  
11 say, a natural gas plant. I don't know that  
12 they have that level of detail, and I don't know  
13 how easy -- they can project what the costs are  
14 going to be in the rates, but I don't know if  
15 they can look at all factors because you have  
16 DMS/EE, you have fuel.

17 A large portion of your electric  
18 bill is dependent on fuel cost itself, and  
19 that's a straight pass-through. So I don't know  
20 that they could sit here today and tell you, in  
21 2020, exactly what your residential ratepayer  
22 bill is going to be, and I think they would be  
23 very reticent to do that because you might lock  
24 them in and say, Oh, you told me it was only  
25 going to be 140, but due to external factors...

1 They're not going to want to admit -- you know,  
2 they're not going to want to lock themselves in  
3 on that, I don't think.

4 SENATOR HUTTO: But is  
5 philosophically the reason we interject  
6 government into this private business decision  
7 about whether or not to build a power plant  
8 because is because we give them a monopoly? Is  
9 that the basis of that?

10 MS. EDWARDS: Well, the idea is  
11 that we -- they have a monopoly to serve their  
12 territory. That is assigned by the State. They  
13 have an obligation to serve, so they have an  
14 obligation to provide reliable, high-quality  
15 utility services to avoid the situation where  
16 you have rolling brown-outs and that thing. And  
17 also, South Carolina is a very pro-business  
18 state. We're very interested in economic  
19 development and growth, so we're very interested  
20 in maintaining reliable service to attract new  
21 businesses and industries.

22 SENATOR HUTTO: And we want to  
23 have capacity to grow.

24 MS. EDWARDS: And we want to have  
25 capacity to grow, yes, sir.

1                   CHAIRMAN SETZLER: But let me  
2 follow up on the Senator from Orangeburg's  
3 question. I'm not sure I ever -- know whether  
4 you got the point. I think -- I understood him  
5 to ask, Does the Commission take into  
6 consideration alternatives that the company  
7 could do other than build what they're before  
8 the Commission for, as to the effect on the  
9 ratepayer?

10                   MS. EDWARDS: Yes. They do  
11 consider the other forms of generation.

12                   CHAIRMAN SETZLER: Okay.

13                   MS. EDWARDS: And, yes, I do  
14 think they look at the cost. Like, for example,  
15 the company would present the other alternatives  
16 that were before them, and certainly, you know,  
17 you have the -- back then, in 2008, building a  
18 natural gas plant was not -- it was considered a  
19 peaker, you know. It wasn't necessarily  
20 considered a base-load unit at that time. And  
21 the cost per dekawatt -- per dekatherm was such  
22 that nobody would have considered doing it.

23                   So I would say, yes, sir, they do  
24 consider that. I just don't know that they have  
25 the wherewithal to say, okay, this is exactly

1 the resident -- this is going to be the dollar  
2 amount that the residential customer is going to  
3 pay on a monthly basis after the new generation  
4 is built.

5 CHAIRMAN SETZLER: Okay. Senator  
6 --

7 CHAIRMAN MASSEY: Senator from  
8 Oconee.

9 CHAIRMAN SETZLER: Senator from  
10 Oconee.

11 SENATOR ALEXANDER: Kind of  
12 following up on that same theme of looking back  
13 then into what was the opportunities and other  
14 aspects, and you kind of hit on it with the  
15 carbon tax. So had a new coal-generating plant  
16 been proposed at that time rather than nuclear,  
17 would that environment -- help me understand  
18 what that environment was at that particular  
19 time from that standpoint.

20 MS. EDWARDS: At that particular  
21 time, Senator Alexander, coal was not favored.  
22 And, in fact, I know there's been testimony that  
23 Santee Cooper had been looking at a coal plant  
24 and then decided not to pursue that. Coal was  
25 actually not favored in light of the carbon --

1           there was discussion in Congress about a carbon  
2           tax. It's actually referenced in the  
3           Commission's base load order. So it was  
4           definitely in the discussion points at that  
5           time. But in addition to that, you had a great  
6           deal of concern by the environmental community  
7           about building more coal. There was a great  
8           deal of pushback for new coal plants at that  
9           time.

10                           SENATOR ALEXANDER: And since  
11           then -- if I could, one other question or  
12           clarification from my standpoint. Since that  
13           time even until today, have we seen coal plants  
14           actually be decommissioned and go out of  
15           business?

16                           MS. EDWARDS: Yes, sir, we have.  
17           In fact, I would say that with the advent of the  
18           Clean Power Plan, definitely you have seen --  
19           the electric utilities, they have to plan so far  
20           in advance, and I sound like I'm defending them.

21                           SENATOR ALEXANDER: What -- when  
22           we talk about "so far in advance," give me -- is  
23           that five years, ten years?

24                           MS. EDWARDS: Oh, ten years.  
25           They have -- they will do forecast IRPs --

1 they're called Integrated Resource Plans -- they  
2 will do planning at least ten years out; 15  
3 actually.

4 SENATOR ALEXANDER: Up to 15  
5 years.

6 MS. EDWARDS: Up to 15; yes, sir.

7 SENATOR ALEXANDER: Okay. Thank  
8 you.

9 SENATOR HUTTO: Mr. Chairman.

10 CHAIRMAN SETZLER: Yes, sir.  
11 Senator from Orangeburg.

12 SENATOR HUTTO: Just one other  
13 thing to clarify. Obviously, we know SCE&G was  
14 55 and Santee Cooper was 45. If it had been the  
15 flip and Santee Cooper was the major investor,  
16 would they not have had to go before siting?

17 MS. EDWARDS: That's -- well,  
18 SCE&G would still have had to site its portion.

19 SENATOR HUTTO: Its portion. So  
20 when SCE&G did go before the Commission for  
21 siting, was it only going to site 55 percent?

22 MS. EDWARDS: Yes, sir.

23 SENATOR HUTTO: It was? So --

24 MS. EDWARDS: Yes, sir. We  
25 didn't have any presenters from Santee Cooper.

1       There was -- Santee --

2                   SENATOR HUTTO: Well, I  
3 understand that. I just wonder whether, at the  
4 time that they made the presentation, they were  
5 the hundred percent partner. Was Santee Cooper  
6 already -- had their 45 percent locked in at  
7 that time?

8                   MS. EDWARDS: Oh, I see. I'm  
9 sorry; I misunderstood the question. When SCE&G  
10 came into the Commission, it was -- Santee  
11 Cooper was already a partner. So they were  
12 presenting to the Commission their 55 percent.

13                   SENATOR HUTTO: So they were  
14 presenting a 55 percent case.

15                   MS. EDWARDS: Yes, sir.

16                   SENATOR HUTTO: Okay.

17                   CHAIRMAN SETZLER: Senator from  
18 Richland, did you have another question?

19                   SENATOR SCOTT: On this same  
20 question, we were sitting over and talking about  
21 it. In the public-private partnership, unlike  
22 Santee Cooper coming to the table by themselves  
23 to build a nuclear reactor, where in the statute  
24 it actually says that now, as a public-private  
25 partner, you are not weighed in at the same

1 level? I mean, standing alone as a public  
2 utility company, that's one thing, but as a  
3 public-private partner, does -- where in the  
4 statute prohibit y'all from really taking a real  
5 detailed look at that whole project in total  
6 with both Santee Cooper as well as with SCANA?  
7 Because I keep hearing the separation of  
8 percentages, but at the end, you can tell me  
9 what the amount is going to be. I think it was  
10 \$8 billion.

11 MS. EDWARDS: Well, and actually,  
12 I do have a correction to your prior question.  
13 I have a nice team behind me, and I have a  
14 director over that department, and SCE&G's gross  
15 for their 55 percent in 2008 was 6.313 billion.

16 SENATOR SCOTT: Right.

17 MS. EDWARDS: But the hundred  
18 percent gross cost was 11.45 billion. I think,  
19 Senator Scott, I can truncate and go straight  
20 to, I think, where you're headed, which is, one  
21 of the things that we've discussed, obviously,  
22 you know, you look back and you try to learn,  
23 you know?

24 SENATOR SCOTT: Right.

25 MS. EDWARDS: And so in looking

1 back, one thing, if I were asked, what would you  
2 recommend as a change, I don't think if you're  
3 having a major -- you know, we're talking, you  
4 know, a thousand, you know -- two new nuclear  
5 units. You're talking more than a thousand  
6 megawatts per unit. I don't think that the  
7 Commission, if they're going to have the siting  
8 authority, they shouldn't site half the plant.

9 SENATOR SCOTT: Right.

10 MS. EDWARDS: That's -- I mean,  
11 that's the best way I can say it. I don't think  
12 the Commission should site half the plant, and I  
13 think that gets to the point that you're making,  
14 which is, was there a minus in the review in the  
15 sense that we were only focused on SCE&G? I  
16 mean, I'll admit that straight up. We were --  
17 because that's the jurisdictional entity that  
18 goes before the Commission, and we weren't  
19 focused on Santee Cooper.

20 If anything, I think if you go  
21 back and look at that base load order, it was  
22 probably -- it may be sited in the base load  
23 order, and I'm going by recollection from 2008,  
24 so please forgive me. But I do recall that, you  
25 know, having a public partner like Santee Cooper

1 was considered a positive. I mean, that's  
2 considered a stable partner, and so at the time  
3 the Commission was reviewing this, I'm sure in  
4 the back of their minds was, Hey, we've got a  
5 State owned and operated utility that is a  
6 partner with the privately -- you know, the  
7 investor-owned utility. That was probably  
8 considered very much a positive.

9 SENATOR SCOTT: Okay. And so in  
10 the end, in '16 when they say a 13.6 or 13.9,  
11 when the general public is thinking 8 billion  
12 when it's really 13.9, and I guess some of it's  
13 because of the change order. You go from 11.4  
14 to 13.9. Really, the numbers are not that far  
15 off.

16 MS. EDWARDS: In today's world,  
17 no, and when I look at Georgia, you know,  
18 certainly their costs have also exceeded. One  
19 of the things I would mention to you, Senator  
20 Scott, that I forgot a few minutes ago is, when  
21 the utility, SCE&G, came forward, one of the  
22 things that was presented to the Commission is,  
23 well, we're first movers, and because we're  
24 first movers, we're getting a discount. We're  
25 getting an opportunity to move forward with the

1 building of these AP1000s because, you know,  
2 westinghouse, at that time, was trying -- I  
3 mean, I think there were some 20-odd utilities  
4 nationally that were looking at new nuclear.

5 SENATOR SCOTT: Right.

6 MS. EDWARDS: So, you know, you  
7 almost had this, you know, well, because you're  
8 a first mover, we're going to give you a better  
9 price kind of idea.

10 SENATOR SCOTT: Well --

11 MS. EDWARDS: Didn't turn out  
12 that way.

13 SENATOR SCOTT: I understand.

14 And so knowing that 11.4 is a number, where then  
15 would the Commission cut off be in terms of  
16 those numbers that make sense, and the 13.6 or  
17 9, whatever their new number is, becomes their  
18 responsibility to finish it up? Because, you  
19 know, just to walk away from the plant, to me,  
20 now, is truly not making a whole lot of sense  
21 anymore, especially with 11.4. I'm hearing  
22 eight was a number with the general public when  
23 -- your organization, your agency know that  
24 that's not a true number, and so we get to 9.3  
25 when 11.4 is still out there and a change

1 order's going to take me to about 13, and that's  
2 a guess-estimate number?

3 So I'm trying to figure out about  
4 the walk-away now, because the walk-away now,  
5 when you really add the true numbers and look at  
6 what Duke was doing and what the rest of the  
7 country was doing, it's not making a whole lot  
8 of sense just to scrap the project.

9 MS. EDWARDS: Well, for ORS -- I  
10 can't say for the Commission, but for ORS, I  
11 feel like for us, when we hit 2015, that was our  
12 tough year because that's when SCE&G came in  
13 with a petition for modification, and that was  
14 when they were, for the first time, going to go  
15 above that initial 6.3 billion. And that was a  
16 tough case. We had just gotten the South  
17 Carolina Supreme Court decision in 2014 that  
18 said, well, yes, the utility can use this  
19 provision to modify the budget and the  
20 construction schedule, so there is an  
21 opportunity to modify.

22 There had been the argument on  
23 appeal that, well, no, the original number you  
24 put in when you first filed your base load  
25 review order, or base load review application,

1       you know, you should have guessed it right the  
2       first time, or you should have gotten it right  
3       the first time. You can't lowball and then come  
4       in successfully, you know, through these  
5       modification processes and keep adding up your  
6       budget.

7                        So for us, I feel like 2015 was  
8       the year that, you know, we were presented with  
9       this issue that you're talking about now, which  
10      is, okay, they've spent X amount. They have Y,  
11      you know, people out at the construction site.  
12      When do you start looking? And our outside  
13      expert assisted us. We also had staff, and  
14      basically, our takeaway was, well, we're just  
15      now getting back to the original gross cost, but  
16      then, of course, 47 days after the Commission  
17      issued their order, there was an amendment to  
18      their EPC contract, and they came up with this  
19      fixed-price option. And that's when, you know,  
20      I think for us as ORS, you know, we said, well,  
21      look, how -- where do you put the caution sign?

22                       And I think 2016, from our  
23      learning experience of 2015, for us, that's when  
24      we said, okay, fixed-price agreement, we  
25      understand you've got this deal with

1 westinghouse where the amount to complete the  
2 two units is now set, but we, as ORS, we've seen  
3 westinghouse not keep its commitment to you  
4 successfully, SCE&G, so we want a guarantee.  
5 And this is what ORS and the other parties  
6 negotiated. So I think, in terms of financial  
7 responsibility, we felt that that 2016 case was  
8 where we kind of put our foot down -- for ORS.

9 SENATOR SCOTT: But we knew in a  
10 desktop review, in looking at what westinghouse  
11 has sent you, with a simple side-by-side where  
12 SCANA and Santee Cooper was, that \$8 billion --  
13 and 6 billion was not realistic from the very  
14 beginning. In doing a side-by-side -- because  
15 one submits in '07, the other in '08, so you do  
16 have some figures in that estimation.

17 when you do a side-by-side,  
18 you're building the same two reactors, basically  
19 the same size, the same company, maybe different  
20 name-brand material, but on a side-by-side, we  
21 knew then that they weren't even in the  
22 ballpark. And so to come back, come back, and  
23 we go from 8 now to 11.4, and I don't know how  
24 you get the 11.4, at what time you do it, even  
25 with saying that I have a guarantee, or a fixed-

1 price contract, that that was not going to work  
2 because the other part, in the fixed price, I'm  
3 going to just stay at the 11.4, and let's say  
4 11.4 was a good number, and they're at 9.3.

5 Even with 11.4, and Duke is  
6 saying 11 makes more sense than anything else,  
7 although we're not going to do anything because  
8 we're going to take a look at all our options,  
9 that an 8 or even a 6 really didn't make any  
10 sense. And so in looking at the commitment for  
11 Westinghouse, I'm pretty sure that you had a  
12 chance to look at the waste that Westinghouse  
13 had done in your analysis, and I'm pretty sure  
14 somebody did an analysis to see how far off, how  
15 many change orders we had, how many times -- how  
16 much loss we had in labor costs and time and  
17 services, and discounting that, that the numbers  
18 truly couldn't have made sense.

19 MS. EDWARDS: Senator Scott, I'll  
20 have to go back and do some further research  
21 because I don't -- I keep stumbling between the  
22 6 and the 8. Is the 8 the -- is that a partial  
23 number, or -- I guess where I'm going is, I'm a  
24 little -- I think I'll have to take it back and  
25 confer.

1                   CHAIRMAN SETZLER: Okay, what  
2                   about do that and get back with Senator Scott,  
3                   if you would.

4                   SENATOR SCOTT: I'm fine. I'm  
5                   done.

6                   CHAIRMAN SETZLER: Okay.

7                   SENATOR SCOTT: Thank you, I'm  
8                   done.

9                   CHAIRMAN MASSEY: Mr. Chairman.

10                  CHAIRMAN SETZLER: Senator from  
11                  Aiken.

12                  CHAIRMAN MASSEY: If I could, and  
13                  I was going to wait until you finished, but  
14                  you're almost finished, so I'm just going to --  
15                  you've only got one more slide, I see, so I'm  
16                  just going to --

17                  MS. EDWARDS: That's all right.

18                  CHAIRMAN MASSEY: I mean, I want  
19                  to hit, first of all, I mean, you said 2015,  
20                  that modification was a tough one. But looking  
21                  back, it's especially tough because they were  
22                  hiding stuff from you.

23                  MS. EDWARDS: Yes, sir. Well, I  
24                  --

25                  CHAIRMAN MASSEY: I mean, they

1 were not being -- I think we all know now that  
2 they were not fully disclosing everything that  
3 they knew, which certainly had a factor in ORS's  
4 position, which, I think, had a significant  
5 influence on PSC's decision. I mean, and that's  
6 getting a little bit off topic of where I wanted  
7 to focus today, but I think -- because you  
8 brought that up, I think that has to be said,  
9 right? I mean, that certainly complicates  
10 everything from 2015.

11 MS. EDWARDS: You know, Senator  
12 Massey, I'm going to say it is our expectation,  
13 as ORS, with a regulated utility that when we  
14 ask to see or access the utility's books and  
15 records -- and this is in the statute -- that  
16 when we ask to access the utility's books and  
17 records and we ask for information, it is our  
18 expectation that that information would be  
19 provided.

20 CHAIRMAN MASSEY: well, and  
21 that's going to be something that I want to talk  
22 about this afternoon as far as something that we  
23 can -- one of the many proposals of trying to  
24 fix some stuff is, I think if we're going to  
25 maintain a regulated monopoly status, I think we

1 have to ensure that ORS or whomever -- whatever  
2 agency is going to perform a similar role has to  
3 have complete access to information from the  
4 regulated entity. I mean, there's no way that  
5 we can perform adequate regulations unless you  
6 have that information.

7 So that's one of the things I  
8 hope we talk about this afternoon when we talk  
9 about some ideas. And so setting aside -- and I  
10 want to come back to the Base Load Review Act in  
11 a second -- but setting aside the Base Load  
12 Review Act determinations, has ORS had  
13 difficulty gaining, acquiring information from  
14 regulated utilities when cases have been  
15 presented before the PSC?

16 MS. EDWARDS: To the extent we've  
17 had difficulty, Senator Massey, in my tenure,  
18 it's more of a situation where they are a  
19 smaller entity and they just don't have the  
20 wherewithal to pull the information together.  
21 I'm typically thinking of smaller  
22 water/wastewater cases where, you know, they  
23 just might not have the books and records that  
24 are needed to support their rate application.  
25 There have been those kind of situations, and

1       what our staff has done in those cases is work  
2       with the utility. I do know --

3                   CHAIRMAN MASSEY: That's a little  
4       bit troubling, too, if you can't --

5                   MS. EDWARDS: I know.

6                   CHAIRMAN MASSEY: -- if you can't  
7       justify your rate increase requests.

8                   MS. EDWARDS: There's been  
9       situations where, you know, you have some of  
10      these developers that have put in a water --  
11      particularly, perhaps, a sewer system, and then  
12      the developer then turns over the system to  
13      someone else. So the short answer to your  
14      question is, you know, you kind of have some of  
15      these mom-and-pops that are putting together  
16      their -- they come in for a rate case  
17      application. They're not large corporations.  
18      They don't have regulatory in-house counsel. So  
19      when we work with them, I mean, we've had our  
20      Audit Department -- and to answer your question,  
21      yes, I mean, it makes the case a good bit more  
22      difficult.

23                   Other than that, I do -- this is  
24      before I came to ORS. I mean, I do know that  
25      over the years, you know -- I'm sure there have

1       been situations where, in the past, getting  
2       information through discovery, you know, to the  
3       extent you're a consumer advocate, for example,  
4       and I do have this concern, when we move  
5       forward, if ORS was to become a consumer  
6       advocate, I don't -- I do think we're going to  
7       need stronger tools with regard to discovery  
8       because right now, our public interest test  
9       includes the financial integrity of the utility.  
10      So they want to, today -- normally, they would  
11      want to provide us information. I think that's  
12      another reason why --

13                   CHAIRMAN MASSEY: well, they want  
14      to provide the information if it's in their  
15      interest.

16                   MS. EDWARDS: That's exactly  
17      right. That's exactly right.

18                   CHAIRMAN MASSEY: I mean, and I'm  
19      glad you brought up the consumer advocate thing  
20      because that's something else I would like to  
21      talk about this afternoon. One of the things  
22      that I would hope that we could hope that we  
23      could have a pretty strong consensus on, that we  
24      need -- and I agree with you that if we're going  
25      to have a consumer advocate, a dedicated

1 consumer advocate, and I think we should, that  
2 that consumer advocate is going to have to have  
3 the authority to get all the information that we  
4 have. Now, your response to my question is  
5 going to have to be a little bit limited because  
6 you're telling me based on what you know.

7 MS. EDWARDS: That's true.

8 CHAIRMAN MASSEY: Right? If it  
9 were not for this process, you would not have  
10 known that you didn't have all the information  
11 from 2015.

12 MS. EDWARDS: That's correct.

13 CHAIRMAN MASSEY: Right? And so  
14 that's one of my concerns, is that they're going  
15 to give you the information that they think is  
16 to their interest unless they're compelled to  
17 give it otherwise. And I get it. I'm not  
18 necessarily faulting that. I get it, but I  
19 think from our perspective, if we're going to  
20 have the regulated system that we have, that one  
21 of the exchanges there is if we're going to give  
22 you an entire service territory and we're going  
23 to let you have it exclusively, part of the deal  
24 is going to have to be, you're going to have to  
25 give us everything, right?

1                   I mean, we've got to have all the  
2 information so that decisions can be made, and  
3 there's going to have to be more of a focus, it  
4 seems to me, on the people who are actually  
5 paying the bills as well because right now, I  
6 mean, ORS -- another thing to talk about this  
7 afternoon -- ORS is obviously conflicted. We  
8 can't have that going forward.

9                   MS. EDWARDS: Yes, sir.

10                  CHAIRMAN MASSEY: That kind of  
11 gets into the conversation about the dedicated  
12 consumer advocate, I think, but I would suspect  
13 that we're going to have a strong consensus on  
14 that point that you can't have a conflicted  
15 entity there.

16                  CHAIRMAN SETZLER: While you're  
17 thinking, can I follow up --

18                  CHAIRMAN MASSEY: Sure. Go  
19 ahead.

20                  CHAIRMAN SETZLER: -- on one of  
21 the points you made?

22                  CHAIRMAN MASSEY: Absolutely.

23                  CHAIRMAN SETZLER: Going back to  
24 -- you said you -- you, being ORS, has an  
25 expectation that you have been provided

1 everything, and you didn't know about this until  
2 a year and a half, two years later, as a result  
3 of this committee's work. At the time, is there  
4 any representation by the regulated utility that  
5 they have provided you, or is there a  
6 representation to the PSC, or is it assumed or  
7 stipulated that everything has been provided as  
8 a part of the proceedings?

9 MS. EDWARDS: Well --

10 CHAIRMAN SETZLER: I assume there  
11 is. That's what I'm trying to find out.

12 MS. EDWARDS: Right.

13 There's actually two points in time. So for us,  
14 when we send our folks out on-site -- and, of  
15 course, we had folks out on-site at Jenkinsville  
16 -- certainly we make verbal inquiries, but in  
17 the case of this issue, we did issue discovery  
18 in March of 2016, and they were continuing data  
19 requests, and there was a follow-up in June of  
20 2016.

21 So I guess, to answer your  
22 question, we believed at the time that we had  
23 asked sufficient questions to elicit any  
24 assessment being done by Bechtel. We do believe  
25 that we had certainly asked the questions, both

1 verbally and in writing, that would or should  
2 have, in our minds, solicited that information.

3 CHAIRMAN SETZLER: Okay, and  
4 again, before the PSC, is there a representation  
5 that everything has been provided by the  
6 regulated utility?

7 MS. EDWARDS: Senator Setzler, I  
8 do -- I don't know that there's an overall  
9 representation to the Commission of that regard.

10 CHAIRMAN SETZLER: Okay.

11 MS. EDWARDS: I -- not to my  
12 recollection.

13 CHAIRMAN SETZLER: Okay. Thank  
14 you.

15 CHAIRMAN MASSEY: Let's talk  
16 about the Base Load Review Act a little bit.  
17 And I understand that from the initial decision  
18 in -- I mean, the world's different than it was  
19 in 2008, and I get that. We've got to -- I  
20 think we have to acknowledge that. But  
21 initially, when the request was made to proceed  
22 with Jenkinsville, am I correct that the  
23 utility, which would have been SCANA in this  
24 case, SCE&G, they had the burden of establishing  
25 that it was prudent to move forward with that

1 project? Is that right?

2 MS. EDWARDS: Correct.

3 CHAIRMAN MASSEY: All right. But  
4 thereafter, every decision -- anytime something  
5 came before the Commission, that the burden of  
6 establishing whether a particular act was  
7 prudent was not with SCE&G; is that right?

8 MS. EDWARDS: Correct.

9 CHAIRMAN MASSEY: So after the  
10 initial determination is made, the burden flips.

11 MS. EDWARDS: That's fair, yes.

12 CHAIRMAN MASSEY: And so if the  
13 burden flips, then who has the burden at that  
14 point?

15 MS. EDWARDS: Well, really, the  
16 burden -- when you say "the burden flips,"  
17 basically, under a modification case, that's a  
18 change to the budget or the construction  
19 schedule. ORS or any other intervening party  
20 would have had the burden to prove by a  
21 preponderance of the evidence that the  
22 modification being sought by the utility, that  
23 they had -- that there was evidence of  
24 imprudence on the part of the utility. And we  
25 ran into that in the 2015 case.

1                   CHAIRMAN MASSEY: So -- all  
2 right, so practically speaking, the only real  
3 entity that would have the ability to meet that  
4 burden would be ORS.

5                   MS. EDWARDS: I believe we would  
6 have been -- yes.

7                   CHAIRMAN MASSEY: Because the  
8 private intervenors, the private parties,  
9 they're not going to have access to the  
10 information in order to prove that it was  
11 imprudent.

12                   MS. EDWARDS: They do ask for  
13 information. I do know that the intervenors  
14 will ask SCE&G, what have you provided ORS? And  
15 they will word their requests accordingly. They  
16 do have to sign a confidentiality agreement in  
17 order to get access to that data, and some  
18 refuse to do so. But --

19                   CHAIRMAN MASSEY: Does ORS have  
20 to do that?

21                   MS. EDWARDS: Yes, sir, we do,  
22 and that would be a recommendation, a strong  
23 recommendation to the comments you made earlier  
24 about, you know, you have a monopoly. You're  
25 charging rates to these customers. What

1           comprises those rates should be public and  
2           transparent.

3                           CHAIRMAN MASSEY: Absolutely. I  
4           mean, I don't want to put somebody at a  
5           competitive disadvantage in some other areas,  
6           but in this area, there's not a competitive  
7           issue because we've given you -- I mean, the  
8           State has granted you the exclusive service  
9           territory. And you've got to be -- it seems to  
10          me that going forward, we're going to have to  
11          make some fully transparent rules there to  
12          ensure that everybody has the information and we  
13          all know what we're playing with.

14                          Is -- and I am curious, too, as  
15          to whether that standard, whether the  
16          preponderance of the evidence standard is a  
17          reasonable standard to have in that proceeding.  
18          But -- all right, before I get to that, let me  
19          ask you this. So every modification case since  
20          the initial determination that it was prudent to  
21          go forward to go forward with the project, every  
22          modification case since then, they're going to  
23          get unless ORS establishes that it was, by a  
24          preponderance of the evidence, that it's  
25          imprudent.

1 MS. EDWARDS: Yes, sir. The only  
2 other example I can possibly think of is if  
3 there was some sort of whistle-blower that  
4 talked to one of the other intervenors and  
5 presented evidence of imprudence on the part of  
6 the utility. But generally speaking, I would  
7 agree with you that really, ORS -- the other  
8 intervenors have verbally told me, like Scott  
9 Elliott for the industrial users -- I do know  
10 that they rely heavily on ORS to carry that --

11 CHAIRMAN MASSEY: Which is fine  
12 if, again, ORS is a dedicated consumer advocate.

13 MS. EDWARDS: Yes, sir.

14 CHAIRMAN MASSEY: Right? If  
15 you've got a conflicted mandate, then that  
16 jeopardizes the whole deal, right? All right.

17 CHAIRMAN SETZLER: Or if you're  
18 not getting all the information.

19 MS. EDWARDS: That's --

20 CHAIRMAN MASSEY: Yeah, that's  
21 important too. So there were multiple failures  
22 here, I think, that we can -- maybe we can fix  
23 going forward. Is there any other scenario,  
24 other than the Base Load Review Act, where the  
25 burden is on someone other than the moving party

1 to establish things?

2 MS. EDWARDS: Not that I'm aware  
3 of. And let me take a quick look. No.

4 CHAIRMAN MASSEY: All right. So  
5 that is unique to the Base Load Review Act.

6 MS. EDWARDS: Yes.

7 CHAIRMAN MASSEY: All right. You  
8 know, it's interesting. Have you -- are you  
9 familiar with Georgia's version of the Base Load  
10 Review Act?

11 MS. EDWARDS: I have not read it  
12 in detail, no. I am generally aware that their  
13 version requires periodic looks. I think they  
14 have more frequent cases, whereas for us, we  
15 only have a case where SCE&G was coming in to  
16 modify the budget or schedule, whereas I think  
17 they have an annual -- is it an annual look  
18 -- semiannual look.

19 CHAIRMAN MASSEY: How many cases  
20 -- well, I mean, how many projects have been  
21 presented under the Base Load Review Act, just  
22 the two?

23 MS. EDWARDS: Just -- for  
24 purposes of base load, actually moving forward  
25 with nuclear construction, that would be SCE&G's

1 project at Jenkinsville. The -- where Duke is  
2 is they have what is known as a preconstruction  
3 order, so they have not come back to the  
4 Commission to get a base load review order.  
5 They have not done that, and I don't anticipate  
6 that they will.

7 CHAIRMAN MASSEY: That  
8 preconstruction order that they have, was that  
9 something that was set up under the Base Load  
10 Review Act?

11 MS. EDWARDS: Yes, sir.

12 CHAIRMAN MASSEY: Okay. But  
13 those are the only two projects where utilities  
14 have attempted to use the Base Load Review Act.

15 MS. EDWARDS: Yes, sir.

16 CHAIRMAN MASSEY: All right. And  
17 I think I know the answer to this question. You  
18 hearing anything about anybody else trying to  
19 use the Base Load Review Act?

20 MS. EDWARDS: No. No, and I  
21 don't anticipate I will.

22 CHAIRMAN MASSEY: Well, I'm not  
23 sure they'll have the opportunity to anyway.

24 CHAIRMAN SETZLER: Senator from  
25 Orangeburg -- you through? wait.

1                   CHAIRMAN MASSEY: No, I'm good.  
2                   Let him go ahead.

3                   CHAIRMAN SETZLER: Senator from  
4                   Orangeburg.

5                   SENATOR HUTTO: The more he asks,  
6                   the more I have, so I think we're probably --

7                   CHAIRMAN MASSEY: I'm fine with  
8                   going back and forth like that, yeah.

9                   SENATOR HUTTO: A couple of  
10                  questions. The mention of a consumer advocate,  
11                  because of the conflict that may exist as we now  
12                  look back on this, do you have an opinion as to  
13                  where that would be housed? would we put it at  
14                  the -- Consumer Affairs, or would we -- it  
15                  wouldn't be a separate division of ORS, and it  
16                  wouldn't be under the PSC. It would just have  
17                  to be a newly created entity, or either we would  
18                  have to house it under some already existing  
19                  entity. Is that -- do you know what the model  
20                  would be?

21                  MS. EDWARDS: Senator Hutto, you  
22                  know, this question has been asked of us, and so  
23                  I've had time to talk to the executive director  
24                  and others at ORS, and one thing I would say is,  
25                  I do think trying to house the consumer advocate

1 within ORS -- in other words, we keep our  
2 definition of public interest as is but yet have  
3 another entity within ORS, I -- the more I've  
4 thought about that, the more I think that that  
5 is where I would be -- there -- we would then be  
6 in the position of presenting two totally  
7 different sets of testimony before the same  
8 Public Service Commission potentially. And I  
9 don't think that is helpful.

10 To me, the easiest solution is,  
11 you revise ORS's definition of public interest.  
12 That's economical, and certainly you could do  
13 that, and the argument there is, the utility can  
14 protect its own financial interest.

15 CHAIRMAN SETZLER: Correct.

16 MS. EDWARDS: That would be  
17 probably one way to do it.

18 SENATOR HUTTO: It would just  
19 give you a dual mission. I mean -- or is that  
20 not --

21 MS. EDWARDS: Oh, I see what  
22 you're saying. That would leave economic  
23 development and the using and consuming public.  
24 Certainly, that's fair. I've also heard others  
25 suggest just leave the using and consuming

1 public. I -- you know, one area that you might  
2 consider is that you give our definition of  
3 "public interest" to the Commission as a  
4 requirement when they set just and reasonable  
5 rates, and then you have ORS represent the using  
6 and consuming public. That would be a flavor.

7 But to answer your question, I  
8 mean, certainly you could have a consumer  
9 advocate at the Department of Consumer Affairs,  
10 leaving ORS the way we are. I know we've  
11 provided information that, in a lot of other  
12 states, there are consumer advocates housed  
13 within that state attorney general's office. So  
14 you've had -- there are different structures.  
15 North Carolina has a North Carolina Public  
16 Staff, but they also have an -- the North  
17 Carolina attorney general's office will  
18 participate before the commission.

19 SENATOR HUTTO: Clearly we could  
20 separate them, but am I hearing you say you  
21 think we could house it all together and that  
22 that would --

23 MS. EDWARDS: No. I was actually  
24 saying that I think having a consumer advocate  
25 within ORS and we keep our definition -- I think

1 that creates the problem where you have one  
2 agency with possibly two sets of different  
3 testimony.

4 SENATOR HUTTO: Right.

5 MS. EDWARDS: I think that's  
6 difficult.

7 CHAIRMAN SETZLER: Didn't you say  
8 change the definition -- your definition, and  
9 then you could leave it in there?

10 MS. EDWARDS: Yes, sir. You  
11 could change the "public interest" definition  
12 and, in essence, what you would be doing is is  
13 ORS would become a consumer advocate.

14 CHAIRMAN MASSEY: And I'm  
15 persuaded that the utilities can probably  
16 represent their own interests with that so that  
17 -- I mean, and let's face it, and in many  
18 situations, they've even got you outgunned.

19 MS. EDWARDS: Oh, yeah.

20 CHAIRMAN MASSEY: Right? So I  
21 mean, they are more than capable of representing  
22 their own interests. I do wonder, though, if  
23 you set aside the larger utilities, if you're  
24 just talking about -- like these small mom-and-  
25 pops that you talked about earlier, what is

1 their ability to represent their interests?

2 MS. EDWARDS: Well, what I would  
3 recommend there is, there -- other state  
4 commissions have streamlined the rate-making  
5 regulatory process. Probably one of the largest  
6 costs, Senator Massey, for a small company like  
7 that is for them to retain outside counsel and  
8 represent themselves before the Public Service  
9 Commission. We call that rate-case expenses.  
10 And if you have -- I mean, if you can imagine,  
11 if you have less than a hundred customers but  
12 you've got a \$200,000 rate-case expense bill  
13 between your outside experts, between your  
14 attorney fees, I mean, that is what creates, I  
15 think, a hurdle for these smaller utilities.  
16 And, of course, those costs get passed through  
17 to that small water/wastewater entity --  
18 customers.

19 CHAIRMAN MASSEY: Well, I mean,  
20 it could be. I mean, if they're acting  
21 responsibly, it could be that the consumer  
22 advocate actually agrees with them.

23 MS. EDWARDS: That's correct.

24 CHAIRMAN MASSEY: Right? I mean,  
25 if -- as long as you have all the information

1 and you can make that determination, I mean, I  
2 suspect that's going to happen in some situa --  
3 I mean, that's -- hopefully, that's the way that  
4 it would happen all the time. You can get  
5 agreement, and it's actually beneficial to the  
6 utility, to the State, and to the customers. I  
7 mean, I think that's where we'd all like to be  
8 in that sweet spot, if you can make that happen.  
9 But I mean, I think that we could probably  
10 change that definition and make them more of a  
11 consumer advocate but have an economic  
12 development consideration as well and allow the  
13 utilities to represent themselves on that. I  
14 had another really good question and I just  
15 forgot it.

16 SENATOR HUTTO: Well, I got one  
17 while you're waiting.

18 CHAIRMAN SETZLER: And I got one  
19 too. I want to go back to this -- before I call  
20 the Senator from Orangeburg, I want to go back  
21 to this confidentiality. So you have to sign a  
22 confidentiality agreement with any information  
23 you get from the public utility.

24 MS. EDWARDS: We have -- in order  
25 to access the information -- and, Senator

1           Setzler, let me caveat. Certainly, as ORS, our  
2           legal team, we could have gone to the Commission  
3           and said, Okay, well, we think these items  
4           should be public, not confidential. But what  
5           happens is, you're under statutory time frames.  
6           This base load case, these rate cases, they're  
7           six months, so from the time they file the  
8           application, we've got to get prepared, get our  
9           information, access those books and records so  
10          that we can develop our position in time to meet  
11          the deadline for prefiled testimony.

12                        So when you're operating in this  
13          very truncated process, administrative process  
14          before the Commission, you don't have a lot of  
15          time to go argue over each and every item that's  
16          marked "confidential." So we did get -- we  
17          executed a confidentiality agreement in order to  
18          access the information with regard to these  
19          cases that came before the Commission on new  
20          nuclear.

21                        CHAIRMAN SETZLER: But my point  
22          is, not only did they not disclose to ORS the  
23          existence of the Bechtel Report, they had an  
24          opportunity through a confidentiality agreement  
25          to allow you to see it and didn't take that

1 second step that they could have taken.

2 MS. EDWARDS: Yes, sir.

3 CHAIRMAN SETZLER: All right, and  
4 then, do you agree with me, if you are a  
5 regulated public utility with a monopoly and an  
6 assigned area, that there is an expectation by  
7 the public that if you have a problem, that  
8 you're going to come back to the regulatory  
9 agency and let them know you've got a problem.

10 MS. EDWARDS: Yes, sir.

11 CHAIRMAN MASSEY: Can I --

12 CHAIRMAN SETZLER: I told the  
13 Senator from Orangeburg I'd call on him next,  
14 and then you're next.

15 SENATOR HUTTO: And I don't want  
16 to be flipping around, but you raised -- how  
17 many times -- you said Base Load Review Act has  
18 been used twice?

19 MS. EDWARDS: Yes, sir.

20 SENATOR HUTTO: This --

21 MS. EDWARDS: Duke -- oh, yes,  
22 sir.

23 SENATOR HUTTO: Well, but Duke  
24 has not sought to --

25 MS. EDWARDS: No.

1                   SENATOR HUTTO: Okay. If we  
2                   repealed the Base Load Review Act, because I  
3                   hear some colleagues say that's what we should  
4                   do, is Duke grandfathered in in their request  
5                   because it was made before, or is it when you  
6                   make the request that the statute allows you to  
7                   do it, or is it when you make the earlier  
8                   application? Do you know what I'm asking?

9                   MS. EDWARDS: Yeah, I see what  
10                  you're saying. I think the short answer is, if  
11                  there's a total repeal without some sort of  
12                  language, I would tell you -- I have not talked  
13                  directly to Duke, but I would imagine that they  
14                  would -- if you just totally repealed with no  
15                  replacement, I'm sure that's going to be of  
16                  concern to Duke. I also would point out --

17                 SENATOR HUTTO: All right,  
18                 because they would argue that they actually  
19                 undertook to invest all this money in reliance  
20                 on what was then the Base Load Review Act.

21                 MS. EDWARDS: Yeah, there is that  
22                 issue, and also, sir, you know, there is,  
23                 obviously, in today's environment, there's not  
24                 the opportunity to move forward with the  
25                 investment that's out there at Jenkinsville, but

1 to the extent that there was an entity in the  
2 future that wanted to, for example, come in and  
3 acquire Santee Cooper and/or SCANA or invest in  
4 -- maybe even invest in -- take on additional --  
5 an ownership interest, to the extent that there  
6 is some sort of preservation of what is out  
7 there today, once the Base Load Review Act goes,  
8 it is our feeling at ORS that you're going to  
9 not be able to get any interest from the  
10 investment community to look at that in the  
11 future. It's going to be difficult to have that  
12 opportunity if you wanted to --

13 SENATOR HUTTO: As it relates to  
14 the Jenkinsville plant; is that what you're  
15 saying?

16 MS. EDWARDS: Well, if -- to the  
17 extent that there's a decision to preserve  
18 what's out there --

19 SENATOR HUTTO: Right.

20 MS. EDWARDS: -- with the option  
21 of, you know, a restart later, kind of like what  
22 Tennessee did -- I know Mr. Lonnie Carter talked  
23 about this when he was here before the Senate,  
24 but if you wanted to preserve that, if you have  
25 a total repeal of the Base Load Review Act, I

1 don't know that you're going to be able to get  
2 the financial community to invest.

3 SENATOR HUTTO: So if the goal  
4 is, as I know, I think, the Senator from  
5 Fairfield's goal is and mine, too, is that  
6 ultimately these plants get built because it  
7 just seems to me that that's the -- long-term, a  
8 good decision for South Carolina's future  
9 electric needs. You don't think we could do  
10 that if we just sort of knee-jerk repeal the  
11 Base Load Review Act.

12 MS. EDWARDS: I think it would be  
13 virtually impossible.

14 SENATOR SCOTT: Mr. Chairman.

15 CHAIRMAN SETZLER: Senator from  
16 Richland.

17 SENATOR SCOTT: And I know it's  
18 hard to move it from the front. I know it's  
19 tough.

20 CHAIRMAN SETZLER: Everybody's  
21 anxious.

22 SENATOR SCOTT: I know. I know.  
23 In looking at -- Act 175 established it in 2004,  
24 and you really started billing in the office in  
25 2005, and then by 2006, we dropped the Base Load

1 Review Act on you. And the ball gets to be  
2 played in 2008. In looking at the time frame,  
3 I'm not sure whether or not we actually, give  
4 the size of all the things that were thrown at  
5 your department, we gave you adequate enough  
6 time, A, to staff, as well as to even venture  
7 out to do a lot more research, and put you in a  
8 position on the front end to be able to deal  
9 with a project of that size and that magnitude.

10 In looking at where the statute  
11 is with the smaller projects, I'm pretty sure  
12 your organization was probably a lot more  
13 comfortable, but then looking at the time frame  
14 of a project that large, is there some  
15 additional recommendation based on size of  
16 projects and those who are going to be using  
17 other vehicles other than the normal standard in  
18 order to achieve what they need to achieve,  
19 maybe we need to revisit the statute and whether  
20 or not your department has all the expertise --  
21 and I'm not questioning the people in your  
22 department -- have all the expertise, and given  
23 the time frame to be able to achieve these kinds  
24 of large projects.

25 Keep in mind, Duke is still out

1       there, and I'm pretty sure that Duke, at some  
2       point, may decide to do something because  
3       -- and I think Senator Hutto said it better than  
4       anybody else, but Duke sent its application  
5       December 13. It's in. It's got to be  
6       grandfathered in because it was already law when  
7       that happened.

8                       In looking at other ways to  
9       achieve what we need to achieve and so we don't  
10      bring your department back and then trying to  
11      play catch-up with these large companies that  
12      are going to be doing it, what would be some of  
13      your recommendations that we need to change, not  
14      necessarily the little, small companies out  
15      there because I'm pretty sure y'all can handle  
16      this well. But these large megaproject with  
17      these large corporations -- we have far more  
18      attorneys sitting in this room when they come  
19      with billion-dollar projects that could  
20      basically -- they've already done their homework  
21      when they come to you, and they've got folk to  
22      get it done, so to put you back, really, in the  
23      driver's seat and not have you at a  
24      disadvantage.

25                      MS. EDWARDS: Yes, sir. I do

1 think we have some recommendations. The siting  
2 act -- I think it's been mentioned before. The  
3 siting act actually existed before the Base Load  
4 Review Act, and if you go back to the siting  
5 act, there's actually a 90-day -- I mean, the  
6 Commission has a very -- is it -- it's 90. It's  
7 a very short time frame for the Commission to  
8 act on a siting case just outside of Base Load  
9 Review Act.

10 Now, under the Base Load Review  
11 Act itself, I would agree with you. We had,  
12 between the time the Base Load Review Act  
13 application was filed, we had -- you know, the  
14 Commission's order had to be issued in six  
15 months. So that's a very tight time frame, and  
16 it was 30 -- I think what people have testified  
17 to is it's been 30 years since the last new  
18 nuclear unit had -- construction had been  
19 started. So -- and it's not easy to find folks  
20 who have nuclear construction experience. So  
21 the -- I would say yes, and yes.

22 SENATOR SCOTT: I would most  
23 definitely be looking for some of those  
24 recommendations because I don't want to fool  
25 ourselves that some other folk -- unless the

1           company come in and decide -- or SCANA decide to  
2           sell, we're still back to level 1 in terms of  
3           trying to finish those reactors, and I'm not so  
4           sure that the statute itself actually protect  
5           the agency and put it in a safe position to  
6           protect the State. Mr. Chairman.

7                           CHAIRMAN SETZLER: Senator from  
8           Edgefield.

9                           CHAIRMAN MASSEY: The -- I'm not  
10          sure I agree with the legal analysis about  
11          whether they might be grandfathered in or not,  
12          but we'll set that aside for a second. Remind  
13          us of what the incentives are for investors are  
14          under the Base Load Review Act.

15                          MS. EDWARDS: There's actually --  
16          the Base Load Review Act definitely provides --  
17          I would say it provides -- it was intended to  
18          provide certainty because before, you had -- you  
19          know, Three Mile Island happened, and you had  
20          all these nuclear units that were either in  
21          partial construction or one -- some of them were  
22          even close to finished. You had this across the  
23          United States. You had these units that were  
24          being abandoned.

25                          And so wall Street -- I'm just

1 going to call it wall street -- there was  
2 definitely a feeling that, you know, to the  
3 extent that there was not a recapture of  
4 original investment as well as, you know, of  
5 course, a return on that investment, this Base  
6 Load Review Act, when it was proposed, I mean,  
7 the idea was to attract capital at a rate -- at  
8 a cost of capital that was reasonable so that a  
9 utility the size of SCANA could actually go to  
10 the investment community and attract that  
11 capital so that the investment could made.

12 CHAIRMAN MASSEY: That reasonable  
13 rate of return was?

14 MS. EDWARDS: And the reasonable  
15 rate of return at that time, in 2008, under the  
16 Base Load Review Act, there was an option so  
17 that the utility that filed could use their  
18 return on equity that had been last set in the  
19 last rate case. And so, for example -- I'm just  
20 going to use SCANA because that's our example --  
21 they had had a case in 2008, before they filed  
22 their Base Load Review Act application, and so  
23 they had just gotten -- and it was a negotiated  
24 -- they had gotten 11 percent return on equity.  
25 So when the 2008 case came around for the Base

1 Load Review Act, they had 11 percent.

2 Now, that may sound high in  
3 today's world, but at that time, that return on  
4 equity was not outside the range of  
5 reasonableness. Today, we are -- rate cases  
6 that are taking place today with electric  
7 utilities -- and I'm not focused on nuclear now.  
8 I'm just focused generally. They've been  
9 getting down under the 10s, but you also still  
10 have some jurisdictions that are around 10  
11 quarter, 10.65.

12 CHAIRMAN MASSEY: Y'all never had  
13 a chance. I mean, the customers never had a  
14 chance. I mean, it -- this thing was set up. I  
15 mean, because you're right. It's a guaranteed  
16 rate of return, but to make it even better,  
17 another big incentive -- am I not right?  
18 Another big incentive is, if we walk away, you  
19 get everything back.

20 MS. EDWARDS: Well, there is that  
21 provision under the abandonment section of the  
22 Base Load Review Act, which, I will tell you  
23 firsthand, I know, from the investment  
24 community, they ask questions about that  
25 abandonment section of the Base Load Review Act.

1 Now, I should -- I use -- if I used the word  
2 "guarantee," I do need to caution --

3 CHAIRMAN MASSEY: I used it.

4 MS. EDWARDS: Well, I would say  
5 that what you're authorized for as an ROE and  
6 what you can actually earn, in normal cases --  
7 if you were to look at the investor-owned  
8 utilities in South Carolina today, what their  
9 overall return on equity is and what they're  
10 authorized at, what they're actually earning can  
11 be less. Now, for new nuclear, I think this --  
12 that revised rates process is a little  
13 different, so I'll stop there.

14 CHAIRMAN MASSEY: But it's  
15 essentially a guaranteed rate of return. I  
16 mean, there's no risk.

17 MS. EDWARDS: Well, in that -- to  
18 your point, and I'm thinking this through.

19 CHAIRMAN MASSEY: At least no  
20 risk to the investor. I mean, it seems to me  
21 that the only people who have risk are the  
22 customers, who have no part in the decision-  
23 making process whatsoever. Am I wrong about  
24 that?

25 MS. EDWARDS: Well, no, the --

1 definitely the criticism of the Base Load Review  
2 Act has been that it -- well, it did shift risk  
3 because you were looking to get the investment  
4 community to provide the capital investment.

5 CHAIRMAN MASSEY: Right, and the  
6 way that you encourage the investment community  
7 to invest is you say, whatever you give us,  
8 you're going to get that back, plus you're going  
9 to get 11 percent. I mean, who turns that down?

10 MALE SPEAKER: I don't understand  
11 it.

12 CHAIRMAN MASSEY: I mean, that --  
13 honestly, to me, the rate of return is not  
14 overly -- it's not as offensive to me as the  
15 ability to recover the abandonment cost because  
16 the -- which I suspect is a huge incentive for  
17 investing in this, but, I mean, you know, one of  
18 the things that I hear the most from people is  
19 that -- one of the things that ticks them off  
20 the most is that there's the potential they  
21 could keep paying for something that they're  
22 never going to get, right? So that is, for me  
23 at least, a particularly offensive part of the  
24 Base Load Review Act is that it allowed -- I  
25 mean, that incentive that's out there, and I get

1           that.

2                           Let me skip around just for a  
3           little bit because I suspect we're going to have  
4           some more conversation about Base Load Review  
5           Act. The confidentiality agreements again: Does  
6           that confidentiality agreement mean that you --  
7           are you allowed to share the information with  
8           your experts?

9                           MS. EDWARDS: Oh, yes, yes, and  
10          they sign -- yes.

11                          CHAIRMAN MASSEY: Are you allowed  
12          to share the information with the Commission?

13                          MS. EDWARDS: We have, to the --  
14          yes. I mean, we have to mark it -- we'll put in  
15          testimony that's both public and redacted.  
16          That's what we -- how we submit it.

17                          SENATOR SCOTT: So the  
18          confidentiality agreements don't prevent ORS  
19          from sharing anything with the Commission?

20                          MS. EDWARDS: I -- not -- no, I  
21          don't believe that they would prevent us. I do  
22          think we would have to file it in accordance  
23          with the Commission's procedures. The  
24          Commission has a procedure that if you submit  
25          information that is marked "confidential," they

1 have a process for that, and we would need to  
2 follow it.

3 CHAIRMAN MASSEY: All right. And  
4 you said something earlier, and this is my  
5 really good question that I forgot.

6 CHAIRMAN SETZLER: Is your arm  
7 sore?

8 CHAIRMAN MASSEY: Yeah. The -- I  
9 think in response to one of the questions that  
10 Senator Hutto asked when you were talking about  
11 maybe reorganizing and dealing with the consumer  
12 advocate and the things that ORS now has to  
13 consider, not only the customers and economic  
14 development but also the utilities, right, and  
15 their financial viability. And you said that we  
16 could have it so the Commission considers that,  
17 which got my attention because I'm surprised --  
18 does the Commission not already consider that?

19 MS. EDWARDS: The Commission has  
20 the responsibility of setting just and  
21 reasonable rates, but there's nothing -- it's  
22 not set forth like it is in our statute. You  
23 know, we have section 58-4-50 -- I think that's  
24 it -- and it -- or 58-4-10, and it specifically  
25 says that is our mission. I believe the way the

1 Commission's mission reads is, it's to set just  
2 and reasonable rates. But in terms of  
3 explicitly saying the balancing of these items,  
4 it does not have that -- it doesn't have that  
5 statute.

6 CHAIRMAN MASSEY: It seems to me  
7 that if the Commission is going to act as a  
8 quasi-judicial -- I mean, really, honestly, it's  
9 an arm of the General Assembly, I think, right,  
10 because -- and I think this is important to  
11 point out, but the General Assembly is the  
12 ultimate rate-maker.

13 MS. EDWARDS: Correct.

14 CHAIRMAN MASSEY: Right? I mean,  
15 we can set out whatever procedure. We can set  
16 whatever rate we want to set. Do you agree with  
17 that?

18 MS. EDWARDS: Yes.

19 CHAIRMAN MASSEY: All right. I  
20 mean, I think that's been pretty well  
21 established, but the PSC -- if the PSC is going  
22 to act as an arm of the General Assembly in  
23 somewhat of a quasi-judicial approach, it seems  
24 to me that to do that job effectively, they've  
25 got to be considering everything.

1                   MS. EDWARDS: I definitely think  
2                   that showing to the Commission or whether you  
3                   put it in a statute, it certainly would indicate  
4                   that the General Assembly wants them to balance  
5                   those considerations because you do need a  
6                   utility that has the ability to invest in and  
7                   maintain those facilities to provide reliable,  
8                   high-quality service. But -- so, you know, the  
9                   Commission -- a point was made to me, actually,  
10                  just this morning. You know, when ORS is  
11                  presenting our testimony, I mean, we go through  
12                  this process, and it's a very truncated  
13                  proceeding. We pull all this information  
14                  together. We develop our position.

15                  Please realize that we don't have  
16                  the benefit of the other parties' positions in  
17                  front of us. So we have the utility's position,  
18                  and we come in, and then we get to see what the  
19                  other parties and the protestants have. Whereas  
20                  if our public interest test was actually with  
21                  the Commission as opposed to ORS, the Commission  
22                  gets to hear all the testimony, read all the  
23                  proposed orders from all the parties, and then  
24                  do the balancing. See, I'm at -- we're in the  
25                  position, we're doing the balancing before we've

1 heard from the other parties if you think about  
2 it.

3 CHAIRMAN MASSEY: Yeah, I get  
4 that, which -- so I'll tell you -- so one of my  
5 big questions all along, quite frankly, has been  
6 whether the PSC was just incompetent, whether  
7 they just screwed this up, or whether the deck  
8 has been stacked in such a way that they didn't  
9 really have a choice on a lot of the things.

10 I mean, they can ask questions  
11 here or there. You know, they can do that, but  
12 statutorily, if they are required to approve  
13 something based on a very low standard of proof,  
14 or a very low burden, they don't really have a  
15 choice to say no, right? And so my question has  
16 been, from the very beginning, which one was it?  
17 Because it was one of them, right? They either  
18 screwed this up, or we've stacked the deck  
19 statutorily in such a way, they didn't really  
20 have a choice one way or another.

21 And I've kind of gone back and  
22 forth on which one I thought it was, but more  
23 recently, I'm leaning towards, this is more of a  
24 statutory problem than an individual  
25 commissioner's problem. And it seems to me that

1 -- and actually this conversation that you and I  
2 have just had has furthered that concern to some  
3 extent because what I'm hearing is that  
4 basically, I mean, everything's decided before  
5 it ever gets to the PSC, right?

6 MS. EDWARDS: Well --

7 CHAIRMAN MASSEY: And so they're  
8 limited in what they can do, and it -- which I  
9 think is a -- I mean, it's a very, very creative  
10 and crafty statutory drafting to set up the  
11 system in the way that it's set up. But I think  
12 that leads to -- it leads to a shifting of the  
13 risk in not just the Base Load Review Act, but  
14 in other areas.

15 This is one of the reasons why I  
16 asked you about the burden in other areas  
17 because it really seems like even outside the  
18 Base Load Review Act, a lot of the decisions are  
19 being made before they get to the PSC anyway, so  
20 there's very -- they have very limited ability  
21 to push back, at least that's what -- the  
22 impression that I'm getting, and if that  
23 happens, then the consumers are the ones who are  
24 getting the raw deal every time.

25 Now, I think it's important --

1 and I don't mean to beat up on the utilities  
2 because I agree with what you just said. We've  
3 got to make sure they've got a stable utility  
4 environment. They need to be able to operate.  
5 We want them to supply power. I think we want  
6 them to make a profit. But my concern is that  
7 not only the Base Load Review Act, but even more  
8 than that, potentially, we've stacked the deck  
9 against consumers that may require more than  
10 just the Base Load Review Act. Does that make  
11 sense?

12 MS. EDWARDS: Yes, sir. The --  
13 with regard to the other cases, what I would say  
14 is, in your general rate case, the burden is on  
15 the utility. I don't -- if I misstated that, I  
16 do need to correct that. Outside of the Base  
17 Load Review Act, the burden is on the utility.  
18 I do believe, and the Commission has not -- I  
19 know there's this -- Senator Massey, I know that  
20 there's this implication that ORS will negotiate  
21 a settlement agreement and present it to the  
22 Commission and you have the Commission just  
23 accepting the settlement agreement. I would  
24 tell you that there is a case, Carolina Water  
25 Service, where they did not.

1                   So I don't -- it's like, to go  
2                   from one extreme to the other, to answer your  
3                   question, I don't think the Commission is  
4                   without the ability to render a decision and to  
5                   push for questions and ask hard questions during  
6                   the hearing. I think they have that ability.

7                   I do agree with you that under  
8                   the Base Load Review Act, not only was it  
9                   difficult for other parties, but I do think it  
10                  was -- there was -- especially under the revised  
11                  rates process, it was very difficult for the  
12                  Commission to -- I mean, that's a four-month  
13                  process under revised rates, so -- and it's a  
14                  paper proceeding. So the Commission wouldn't  
15                  have had the ability to ask questions as part of  
16                  a revised rates proceeding.

17                  I do think that under the  
18                  petition for modifications, I feel like the  
19                  change in the burden of proof -- and not only  
20                  that, but you have to prove imprudence on the  
21                  part of the utility. I think that was a hard  
22                  position for ORS, and I think it was hard for  
23                  the Commission.

24                  CHAIRMAN SETZLER: That's an  
25                  impossible task probably. All right, let's --

1                   CHAIRMAN MASSEY: Especially when  
2 you don't have all the information.

3                   CHAIRMAN SETZLER: Yeah. We got a  
4 bunch of Senators who are waiting, and you've  
5 been standing a long time. Are you okay?

6                   MS. EDWARDS: Yes. Yes, sir,  
7 Senator.

8                   CHAIRMAN SETZLER: So I've got  
9 four Senators at least that want to ask  
10 questions, and we're going to take a lunch  
11 break, so I would ask you to keep your comments  
12 and go directly to questions. Senator from  
13 Fairfield; didn't mean to direct that at you.

14                  SENATOR FANNING: I took the  
15 hint. I took the hint well.

16                  SENATOR ALEXANDER: I think we  
17 all took that hint, not just him.

18                  SENATOR FANNING: Absolutely.  
19 Thank you so much for your testimony today. As  
20 a freshman Senator, I learned a great deal  
21 today. Just a couple of questions. First, you  
22 talked about the Energy Department from within.  
23 You talked about a State Energy Plan, and you  
24 sited eight recommendations. What do they say  
25 regarding our need for nuclear power in the

1 future?

2 MS. EDWARDS: Well, we are -- I  
3 mean, SCE&G -- there is going to be a need for  
4 new generation in South Carolina, and this does  
5 go, Senator Fanning, to, I think, where you're  
6 at, which is, to the extent that we want to have  
7 carbon-free generation, I mean, base load  
8 generation, carbon-free is nuclear. You -- it's  
9 hard to imagine, when you start looking out 15  
10 years, that at some point in time, depending on  
11 other circumstances, that you might not have to  
12 revisit this question.

13 Right now, we're in a situation  
14 where, you know, we are -- there are base load  
15 natural gas generation plants now, and right  
16 now, we're in this situation where they are at  
17 historically low rates. But I worked with a  
18 seasoned person out of an electric utility.  
19 He's now retired, and he said to me, Nanette,  
20 don't ever forget or don't ever underestimate  
21 the ability of a gas marketer to raise natural  
22 gas rates.

23 I know -- the executive director  
24 has said this to me as well. You don't want to  
25 -- you want to diversify. You don't want to put

1 all your eggs in one basket because if you do  
2 that and those rates skyrocket, the customers  
3 are going to get hurt, and so is business. So  
4 to -- that's a long way of answering your  
5 question that -- I think we need to diversify,  
6 and there's a large -- many of these nuclear  
7 units, I mean, they're on their -- I know Duke  
8 is looking at relicensing, but these plants are  
9 getting quite old, and at some point, they are  
10 going to have to be retired.

11 SENATOR FANNING: And -- as well  
12 as your -- our Unit Number 1 will eventually  
13 need to at V. C. Summer. Did we have in the  
14 recommendation a percentage nuclear that was an  
15 ideal that was recommended?

16 MS. EDWARDS: well, at the time  
17 we drafted the report, we had the two new  
18 nuclear units built in, so we were going to have  
19 to go back and obviously remove and see what we  
20 look like without that.

21 SENATOR FANNING: But in the  
22 recommendations, did that they say that -- you  
23 mentioned diversify. Does it need -- do we need  
24 25 percent nuclear or 15 -- you know, as we  
25 project out, is it 10, is it --

1 MS. EDWARDS: Senator Fanning,  
2 let me check. Anthony, do you want to respond?

3 SENATOR FANNING: And, of course,  
4 I realize that was based on information, you  
5 know, at that time, but just --

6 MR. JAMES: There was no type of  
7 discussion about having a portfolio standard  
8 that set some type of generation mix as part of  
9 the discussions that we had when we did the work  
10 on the Energy Plan.

11 SENATOR FANNING: Do you know of  
12 other states that do have diversity portfolios  
13 and if there are percentages that's an accepted  
14 standard?

15 MR. JAMES: Certainly, states  
16 that have portfolio standards, they do establish  
17 those types of percentages. In South Carolina,  
18 you know, we are a heavy nuclear state. You did  
19 have V. C. Summer as part of that. We felt we  
20 had a fair, diverse mix of resources, so I don't  
21 believe it came up as part of an overall  
22 discussion, but I think it may come up again.  
23 We had Act 236 that really addressed a lot of  
24 the questions that we had about green energy,  
25 so.

1                   SENATOR FANNING: Thank you.  
2           Appreciate it. And could you share the eight  
3           recommendations with us at a later date, just  
4           provide that?

5                   MS. EDWARDS: Sure. Yes, sir.  
6           Actually, I had a handout, but, yes, I have -- I  
7           can certainly -- we have a very nice one-sheet  
8           handout that I can give you.

9                   SENATOR FANNING: And can I  
10          assume, if we're doing all the work to set what  
11          we think energy needs would be in the future,  
12          including things like diversity, when you get  
13          applications, do you -- do we judge the  
14          applications versus what our energy plan is?

15                  MS. EDWARDS: We have the -- the  
16          short answer is, we've not had the opportunity  
17          to do that. The last --

18                  SENATOR FANNING: Is that a goal  
19          in the future? In other words, I'd hate for us  
20          to develop this wonderful energy plan and then  
21          accept applications, making decisions that have  
22          nothing to do with it. In other words, adding,  
23          Senator Alexander, four coal plants if we  
24          already are maxing at what we're thinking that  
25          would be. Is that correct?

1                   MS. EDWARDS: I think that is the  
2                   ultimate goal. I mean, the idea was to have a  
3                   state energy plan that represented what the  
4                   generation needs are and where we want to go in  
5                   the future. I will tell you that the Energy  
6                   Office is not a regulatory body. By statute,  
7                   there is -- part of the statute, Senator  
8                   Fanning, is that the Energy Office cannot act as  
9                   a regulatory body. But one of the advantages of  
10                  having the Energy Office within ORS is, they  
11                  teach us a lot, and we're learn -- we've learned  
12                  a great deal. And that has and will impact, I  
13                  believe, the more regulatory side of our face  
14                  that is what takes us before the Public Service  
15                  Commission. So I think it has had an impact. I  
16                  don't think we've had any siting requests at  
17                  that --

18                   SENATOR FANNING: Second  
19                  question: You talked about an Audit Department  
20                  of ORS. Did the ORS Audit Department examine  
21                  the nine requested rate hikes over ten years for  
22                  the purpose of building the two reactors, and if  
23                  so, what were the findings and what were the  
24                  bases of the findings?

25                   MS. EDWARDS: Yes, sir. Our --

1       actually, what our Audit Department does is --  
2       and you can imagine, over time -- the volume of  
3       invoices grows over time as there's more and  
4       more construction out there. So what we found  
5       pretty early on is that our Audit Department is  
6       out there every month, sometimes more frequently  
7       because they can't keep up with reviewing the  
8       invoices such that you have this four-month  
9       paper process. The law is actually very -- in  
10      this area, under revised rates, it really is  
11      kind of an accounting function.

12                    If they spent the dollars -- and  
13      I say "they." If SCE&G spent the dollars and  
14      they produce an invoice that says, Hey, this is  
15      for new nuclear, and our auditors are able to  
16      see that, no, it's not related to Unit 1, or no,  
17      this is -- like, one time, they wanted money for  
18      community outreach. Like, they were having  
19      people come and look at the new nuclear units.  
20      I know we pulled those dollars out because we  
21      felt that that was more of a decision of the  
22      shareholders or the company to showcase and  
23      provide tours and whatnot.

24                    SENATOR FANNING: But this get's  
25      to, I believe, Senator from Edgefield's question

1 earlier is, it sounds like we only allow the  
2 Audit Department to basically approve whether or  
3 not they're spending it on what they say they're  
4 spending it on because we're not allowing them  
5 to say --

6 MS. EDWARDS: They're pretty much  
7 -- if they're entitled --

8 SENATOR FANNING: We're not  
9 allowing the Audit Department to say,  
10 originally, you promised to do this.

11 MS. EDWARDS: That's correct.

12 SENATOR FANNING: And you've now  
13 asked for nine rate increases --

14 MS. EDWARDS: That's correct.

15 SENATOR FANNING: -- for a  
16 project that you originally said you'd do this  
17 -- we're not allowing the Audit Department any  
18 freedom, nor are they -- since they're not a  
19 consumer advocate, to deny that.

20 MS. EDWARDS: That is correct.

21 SENATOR FANNING: Okay.

22 MS. EDWARDS: If SCE&G shows they  
23 spent it, it's actually an entitlement.

24 SENATOR FANNING: So does the  
25 Audit Department actually examine the estimated

1 cost of building the reactor? Okay.

2 MS. EDWARDS: No.

3 SENATOR FANNING: Okay. Third  
4 question: Public necessity or -- or public need  
5 or necessity is not specified under the law. In  
6 your opinion, how could we better define "public  
7 need or necessity"?

8 MS. EDWARDS: We definitely -- it  
9 would be helpful to have a benchmark. We could  
10 certainly, as ORS, if requested, we would be  
11 happy to do some research and pull from other  
12 jurisdictions to see how to better define it.  
13 Off the top of my head, Senator Fanning, I don't  
14 think I have any other recommendations at this  
15 time, but, certainly, we would be happy to look  
16 into that.

17 SENATOR FANNING: Is it -- to go  
18 to the earlier point, it doesn't sound like we  
19 really gave you much to deny, and, obviously, if  
20 we define "public need or necessity," we'd be  
21 giving you more.

22 MS. EDWARDS: That's correct.

23 SENATOR FANNING: So could you  
24 bring forth what maybe other states have  
25 defined?

1 MS. EDWARDS: Absolutely.

2 SENATOR FANNING: Next question:  
3 would it take statutory change to allow ORS to  
4 examine projects in their totality if they're  
5 public-private partnerships?

6 MS. EDWARDS: Yes. The way it's  
7 written today, there is no oversight with regard  
8 to public, no. You --

9 SENATOR FANNING: In other words,  
10 if we wanted to say, We're not going to  
11 investigate Santee Cooper, but we will  
12 investigate any partnership that involves --

13 MS. EDWARDS: Yes.

14 SENATOR FANNING: -- Santee  
15 Cooper at the hundred percent level.

16 MS. EDWARDS: Yes, sir.

17 SENATOR FANNING: And then the  
18 last question, which is, again, a follow-up to  
19 Senator from Richland's question. ORS -- and I  
20 think the point he was trying to make, I don't  
21 think it's really 8 billion versus 6 billion,  
22 but ORS approved, for lack of a better word, two  
23 applications, one -- or investigated two  
24 applications, one for Duke and one for SCANA,  
25 and in the broader sense, Senator from Richland,

1           there were two different figures used.  Whether  
2           or not it was a hundred percent or 55 percent,  
3           they still had different figures used.  Is there  
4           anything that would align applications to make  
5           sure that if we've got two companies proposing  
6           two reactors at basically the same time --

7                           SENATOR SCOTT:  Right.

8                           SENATOR FANNING:  -- that we  
9           wouldn't approve them at two different amounts  
10          unless the utility showed us why there was a  
11          difference in one application and the other?  Is  
12          --

13                          MS. EDWARDS:  Yes.  I mean, I'm  
14          going to go back and look at that, Senator  
15          Fanning.  Off the top of my head -- and this has  
16          been, obviously, a great deal of time ago.  I do  
17          need to go back and refresh my recollection on  
18          that because I don't recall that large of a  
19          diversity, but I could be wrong.  It's been a  
20          long time, and I do think, certainly, that is  
21          something that we can look at.

22                          SENATOR FANNING:  would that need  
23          a statutory change, again, within reason --

24                          MS. EDWARDS:  Right.

25                          SENATOR FANNING:  -- but that

1 recommendations have to approve -- that have to  
2 be consistent in the amount that they approve  
3 for a project?

4 MS. EDWARDS: Senator Fanning,  
5 obviously, if the General Assembly would like to  
6 put that into a statutory construct, you know,  
7 obviously, that would be fine. I'll be honest;  
8 I don't think you should have to, but I would  
9 definitely -- you can certainly, to ensure it,  
10 if you put it in the statute, ORS will certainly  
11 follow it.

12 SENATOR FANNING: Thank you so  
13 much. Mr. Chair, thank you.

14 CHAIRMAN SETZLER: Okay, Senator  
15 from Oconee, and before the Senator starts, I  
16 would announce that we're going to break from  
17 12:30 to 1 for lunch so that everyone knows  
18 that. Senator from Oconee.

19 SENATOR ALEXANDER: Thank you,  
20 Mr. Chairman. I'll be brief.

21 CHAIRMAN MASSEY: And to Senator  
22 Sapp.

23 CHAIRMAN SETZLER: Just  
24 specifically for the Senator from Williamsburg,  
25 who is next on the list to ask questions.

1                   SENATOR ALEXANDER: If you could  
2 give me just a few brief answers here if you  
3 know the answers. What is our nuclear  
4 generation today in South Carolina?

5                   MS. EDWARDS: Well, I was -- I  
6 think we have that.

7                   SENATOR ALEXANDER: Okay, let me  
8 go on and do the other one while he's looking  
9 for that, then, for the sake of time. When you  
10 talk about rates and the consumer, I mean, we're  
11 all consumers, and we want the lowest electric  
12 rates that we can have. How would you classify  
13 -- and if you need to get back to me, that's  
14 fine too. How would you classify the energy  
15 rates in South Carolina compared to either the  
16 Southeast or nationally?

17                  MS. EDWARDS: Actually, I had one  
18 of our folks pull that. I have a handout -- or  
19 I have information I can provide you on that.  
20 Generally speaking, the Southeast overall is  
21 generally lower. I mean, I'm just going to be  
22 candid with you, Senator Alexander. SCE&G rates  
23 are high, and they do drive up our South  
24 Carolina average. I would tell you that if you  
25 were looking at Progress and Duke in isolation,

1 they're very competitive.

2 SENATOR ALEXANDER: Okay. And  
3 you mentioned on the other work being done, as  
4 far as the two reactors, my question is, are we  
5 doing what's necessary now to preserve that  
6 asset?

7 MS. EDWARDS: Senator Alexander,  
8 you raise a very good question. We had out  
9 outside expert Gary Jones, and Director Anthony  
10 was out there just last week. I would have to  
11 tell you at this point in time, what we see is  
12 more action on SCE&G's part to abandon than to  
13 preserve. That's where -- what we're seeing at  
14 this point in time. Now, I do know that we are  
15 very interested in preservation, and so ORS has  
16 prepared a set of discovery questions which we  
17 are about to issue to SCE&G to see if what we --  
18 the feedback I have from staff as well as from  
19 our outside expert would lean more towards more  
20 abandonment than preservation, and we're  
21 following up with that at this time.

22 SENATOR ALEXANDER: Okay. If you  
23 could keep us informed on that, I'd appreciate  
24 it.

25 MS. EDWARDS: Yes, sir. And

1           then, on the nuclear -- did we get the nuclear  
2           generation part right quick? And that will  
3           conclude my questions.

4                       MR. JAMES: We have a number  
5           that's pro rata share for generation for South  
6           Carolina, which means the energy debt allocated  
7           to South Carolina, and that nuclear portion is  
8           32.8 percent.

9                       SENATOR ALEXANDER: So currently,  
10          we're getting -- about a third of our  
11          electricity today is being generated by nuclear.

12                      MR. JAMES: Exactly, sir.

13                      SENATOR ALEXANDER: Thank you.

14                      CHAIRMAN SETZLER: Senator from  
15          Williamsburg, you're up, or do you want to let's  
16          break and take a 35-minute lunch instead of 30  
17          and you be first up when we come back? I'm  
18          going to leave it to you.

19                      SENATOR SABB: It really doesn't  
20          matter. I think I'm going to brief, so --

21                      CHAIRMAN SETZLER: Okay.

22                      SENATOR SABB: -- I probably can  
23          just do it real quick.

24                      CHAIRMAN SETZLER: Senator from  
25          Williamsburg. We don't want you to be brief.

1                   SENATOR SABB: That's all it will  
2 take, Mr. Chairman. And thank you, and I want  
3 to also express my appreciation for your  
4 testimony that you've given today. A couple of  
5 areas, and, of course, I heard the Senator from  
6 Edgefield's point as it relates to  
7 grandfathering, but when I listen to you talk  
8 about diversity, it becomes clear to me that  
9 nuclear is an important element in our --  
10 although we don't have a portfolio standard, but  
11 it needs to be a part of our portfolio. I think  
12 the word "diversity" itself just lends itself to  
13 strength, even when we look at America and the  
14 importance of us being a diversified nation.

15                   I wanted to talk more about the  
16 petition process.

17                   MS. EDWARDS: Okay.

18                   SENATOR SABB: And I heard you  
19 talk about the short window that you're on in  
20 terms of preparing, and I wonder whether or not  
21 we might not get some recommendations about what  
22 could be included in the filing --

23                   MS. EDWARDS: Correct.

24                   SENATOR SABB: -- that would  
25 speed up the process where you don't have to ask

1 for information. There's certain kind of  
2 information that is automatically provided by  
3 the petitioner. It just seems to me as if that  
4 would help you with the short time window that  
5 you have because when I look at civil cases that  
6 we file, we have a year to go through discovery,  
7 and then oftentimes, we're not ready then. And  
8 so, certainly, six months is a short window. So  
9 I'd be interested in recommendations that you  
10 all might have that we might be a part of  
11 requiring certain other things to accompany the  
12 filings.

13 MS. EDWARDS: Yes, sir.

14 SENATOR SABB: The other thing I  
15 wondered about was this idea that you're almost  
16 engaging in trial by ambush, where you really  
17 don't know the positions of everybody until you  
18 actually get to the hearing. And I wonder about  
19 whether or not recommendations as it relates to  
20 either a prehearing brief-type filing where  
21 everybody has to identify what their issues  
22 would be and where they're coming from as it  
23 relates to those issues. I wonder whether or  
24 not recommendations to us about something like  
25 that might not be helpful.

1                   MS. EDWARDS: There is a process  
2                   like that at the Florida Public Service  
3                   Commission, but one recommendation I -- we had  
4                   thought of is that when the parties are filing  
5                   -- the Commission sets the schedule, so the  
6                   utility files, let's say, January 1 or January  
7                   2. And then ORS and any other intervenors, our  
8                   testimony would be due, like, two to three weeks  
9                   later. And then you have an opportunity for  
10                  rebuttal. That's -- the utility will file a  
11                  rebuttal. We don't actually -- when we file as  
12                  ORS, we can do surrebuttal, but when we do  
13                  surrebuttal on the company's rebuttal.

14                  So I do think a process change in  
15                  the way that that testimony is filed with the  
16                  Commission -- for example, one thought would be  
17                  that ORS, if we, for example, become a consumer  
18                  advocate, that perhaps we file our testimony  
19                  after the other intervenors so that we can see  
20                  what positions they're taking. That's one  
21                  thought.

22                  You could -- and again, perhaps,  
23                  look at the way the filings fall with regard to  
24                  -- the other reason I say that is, I think as a  
25                  consumer advocate, when we respond to the

1 utility's testimony, we might need to have  
2 ability to respond to the other intervenors'  
3 testimony, and they would probably want the  
4 ability to respond to ours. That's just a  
5 thought.

6 SENATOR SABB: Yeah, and I think  
7 a well-placed one. The only other issue I had  
8 was on what I call burden shifting. So do you  
9 all have recommendations as relates to how that  
10 part of the process --

11 MS. EDWARDS: Yes, sir.

12 SENATOR SABB: -- would work  
13 better?

14 MS. EDWARDS: For the Base Load  
15 Review Act, that's where this burden shift  
16 occurs. And if there was to be a replacement,  
17 not a repeal, of the BLRA, yes, sir, we do have  
18 recommendations already prepared, and we do have  
19 that as -- and the recommendation is that the  
20 utility carry the burden.

21 SENATOR SABB: Okay. And lastly,  
22 since we're back to the Base Load Review Act,  
23 and I listened to the Senator from Orangeburg,  
24 and I also listened to the Senator from  
25 Edgefield. Are you as convinced as I am that

1       it's only prudent for us, if we were to repeal,  
2       to grandfather both applicants? Because it  
3       appears to me as if they both -- well, and I say  
4       "both," and obviously, I think there are many of  
5       us who believe that to the extent that there is  
6       an entity that can finish the projects that are  
7       underway, that that would better serve our  
8       customers in our state.

9                   But it appears to me as if there  
10       has been some detrimental reliance on the law as  
11       it was at the time they submitted the  
12       applications and at the time they expended the  
13       investments. And so it just seems to be as if  
14       fundamental fairness would dictate that we do  
15       something along those lines.

16                   MS. EDWARDS: Yes, sir,  
17       fundamental fairness, but also, I would agree  
18       with the proposition that, certainly, these  
19       companies would have a taking argument if  
20       they've expended these resources and then are  
21       placed in the position of not recapturing them.  
22       So there is that issue.

23                   SENATOR SABB: Thanks, Mr.  
24       Chairman.

25                   CHAIRMAN SETZLER: Okay.

1                   CHAIRMAN MASSEY: Mr. Chairman,  
2 I've just got to say, I mean, and I understand  
3 -- and maybe we need to have a longer discussion  
4 about that point, but it's very difficult for me  
5 to entertain fundamental fairness towards a  
6 utility that has flat-out screwed the customers.  
7 I mean, they have. I mean, they hid stuff, they  
8 deceived people, and I'm not all that interested  
9 in allowing them to proceed under certain things  
10 when they've got us into this position. I mean  
11 --

12                   SENATOR SABB: And there may be  
13 others that can get us out of it, so --

14                   CHAIRMAN MASSEY: well, then --  
15 and I'm happy to --

16                   SENATOR HUTTO: (INDISTINCT) we  
17 may need to rely on that act.

18                   SENATOR SABB: Absolutely.  
19 Absolutely, and that's my point.

20                   CHAIRMAN MASSEY: And I'm happy  
21 to have that conversation. I'm happy to have  
22 that conversation, but I, as I said in the  
23 beginning, I apprec -- like, I don't want to do  
24 something that's going to be unfair to anybody.  
25 The problem is that the ratepayers have been --

1 have gotten the raw deal on this, and they've  
2 had no input into anything. They've had no  
3 ability to challenge anything, and unless we  
4 make, I mean, some significant changes there,  
5 they're going to continue to get that.

6 SENATOR SABB: well, I -- and,  
7 Mr. Chairman, if you don't mind --

8 CHAIRMAN SETZLER: Yes, sir.  
9 Senator from Williamsburg.

10 SENATOR SABB: I don't disagree  
11 with that, but if you've got a situation where  
12 nothing happens, then they've lost. If you've  
13 got a situation where it is completed, they at  
14 least get the benefit of their bargain. Now,  
15 what that means and how that looks and how long  
16 that is, I don't know, but, you know, unless  
17 you've got a magic wand that we wave and we put  
18 everybody back in the position they were in  
19 prior to the decision to move forward with the  
20 projects, I just don't see that it's that  
21 simple.

22 But I share your passion on the  
23 notion that the ones that are most affected,  
24 that stand to lose more are the ratepayers, and  
25 they had less voice in the process. So I share

1 all of that. I'm just not that certain that the  
2 absence of grandfathering doesn't help us more  
3 than it hurts, and I don't believe that it  
4 necessarily rewards the wrongdoers. I was  
5 convinced of that --

6 CHAIRMAN SETZLER: Well, and I  
7 think that's going to be the question, Senator  
8 from Williamsburg, is that not allowing a  
9 wrongdoer who has gotten in this mess to  
10 therefore benefit even further from where we  
11 are, and I think that's the real issue. All  
12 right, we will reconvene at five minutes after  
13 one. Thank you.

14 02:15:32

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CHAIRMAN SETZLER: I know you're talking about that 9 million -- 9 billion and 13 billion, right?

SENATOR SCOTT: It's higher math.

CHAIRMAN SETZLER: All right, Ms. Edwards, if you'll come on back up, please, ma'am. I'm going to -- I want to try to walk through this, be sure that we and I understand, and I want to talk about this guaranteed rate of return that we came in before. Is it correct or incorrect that under the Base Load Review Act, that what the utility, the regulated utility, is able to recoup is the interest on the money they're having to pay and only the interest?

MS. EDWARDS: That is correct. They're getting the carrying cost. That is correct.

CHAIRMAN SETZLER: The carrying cost, okay.

MS. EDWARDS: Or, well, financing cost is probably --

CHAIRMAN SETZLER: And when everybody talks about a rate of return of 10.5 or whatever it may be, are they saying that the

1 utility gets a rate of return on that money  
2 they're recouping for interest which would, in  
3 essence, be only a pass-through?

4 MS. EDWARDS: And I'm going to  
5 make sure I get this -- Shannon, you want to  
6 come up and help? Because there is a formula  
7 for revised rates, and I think that's where  
8 you're going.

9 MS. HUDSON: Hi, good afternoon.  
10 I'm Shannon Hudson, deputy chief counsel with  
11 the South Carolina Office of Regulatory Staff.  
12 Can you hear me okay?

13 CHAIRMAN SETZLER: We can hear  
14 you.

15 MS. HUDSON: So the question is,  
16 is the rate -- is what they're recovering  
17 essentially a pass-through to pay the financial  
18 entities?

19 CHAIRMAN SETZLER: Correct.

20 MS. HUDSON: Let's see.

21 CHAIRMAN SETZLER: Yeah, well,  
22 that's where I want to go in this, to find out  
23 what the --

24 MS. HUDSON: I'm uncomfortable  
25 saying yes to that, but I can't tell you exactly

1       why.  What I know is how the statute says that  
2       the rates are to be recovered and how they are  
3       to be assigned.  Because the statute doesn't say  
4       that it's to -- intended to be a pass-through,  
5       that's why I'm uncomfortable with the question.

6                   CHAIRMAN SETZLER:  Okay.  Let me  
7       give you a scenario, one of you, and you tell me  
8       whether this is your understanding.  Let's  
9       assume their cost is \$50 million that they're  
10      paying.  So under the Base Load Review Act, they  
11      can recover that \$50 million.

12                   MS. HUDSON:  Let me clarify a  
13      little bit.  The Base Load Review Act allows the  
14      recovery of financing only on expenditures that  
15      have been made under the -- at the construction  
16      site.  So unless an expenditure has been made,  
17      no financing is recovered on that.  And the  
18      financing has two components.  So there's an  
19      equity component and a debt component.  It's the  
20      weighted average cost of capital.  Here.

21                   CHAIRMAN SETZLER:  All right.  So  
22      under the Base Load Review Act, on what they  
23      have expended --

24                   MS. HUDSON:  Yes, sir.

25                   CHAIRMAN SETZLER:  And they have

1 got interest on those expenditures that they've  
2 paid for --

3 MS. HUDSON: Yes, sir.

4 CHAIRMAN SETZLER: They can  
5 recover that interest and pass it through to the  
6 consumer; is that correct or incorrect?

7 MS. HUDSON: That's correct.

8 CHAIRMAN SETZLER: Okay, and that  
9 number, whatever it is, are they getting a  
10 guaranteed rate of return on that amount of  
11 money?

12 MS. HUDSON: They are getting the  
13 opportunity to earn that set return.

14 CHAIRMAN SETZLER: Okay, and I  
15 guess that leads to the question, why would we  
16 guarantee to a regulated utility a rate of  
17 return on what, in essence, appears to me to be  
18 pass-through interest that they're collecting  
19 from the consumers? Why are we adding 10  
20 percent on?

21 MS. HUDSON: So the -- well, it's  
22 -- according to the Base Load Review Act,  
23 there's a portion that allows the utility to  
24 earn a rate of return on the equity, and that's  
25 the -- that was originally set at 11 percent

1 back in 2008. It's 10.25 percent now. So --

2 SENATOR HUTTO: That's

3 (INDISTINCT) or PSC set?

4 MS. HUDSON: The opportunity --  
5 the number is PSC setting; the opportunity to  
6 get the equity component is Base Load Review  
7 Act.

8 SENATOR HUTTO: So, I mean, if --  
9 Mr. Chairman, if the PSC had wanted to say they  
10 could only have a 3 percent return, the PSC  
11 could have said that?

12 MS. HUDSON: That's correct.

13 SENATOR HUTTO: So they're -- I'm  
14 assuming that somebody made an argument, a  
15 persuasive argument, that it ought to be 10.2,  
16 and the PSC agreed with that.

17 MS. HUDSON: And that number  
18 would have to be set up front for revised rates  
19 purposes. It doesn't change each year. It's  
20 what the original up-front number was set at.  
21 So like I said, it was -- the return on equity  
22 portion was -- number was 11 percent to begin  
23 with. By settlement agreement, SCE&G agreed to  
24 reduce it to 10.5 percent, then subsequently  
25 reduced it to 10.25 percent.

1 CHAIRMAN SETZLER: So if --

2 SENATOR HUTTO: But if Duke had  
3 applied and a different set of numbers had come  
4 about, the number could have been 8 percent.

5 MS. HUDSON: Set up front, yes.

6 SENATOR HUTTO: Okay.

7 MS. HUDSON: And Senator Massey,  
8 you asked some of the incentives under the Base  
9 Load Review Act earlier. That set return on  
10 equity is one of the incentives. The  
11 determination of prudence up front, the  
12 opportunity to return -- to get that return,  
13 those are incentives for investors.

14 CHAIRMAN SETZLER: Again, and if  
15 it's a problem with the Base Load Review Act and  
16 it needs to be changed, that's what I'm trying  
17 to find out from you is, again, I don't  
18 understand why we would give a company a rate of  
19 return on money they're collecting from  
20 ratepayers that is only interest that is, quote,  
21 "pass-through" interest. We're adding -- we're  
22 giving them an additional 10 percent on top of  
23 what they're taking from the ratepayers.

24 MS. HUDSON: It is the weighted  
25 average cost of capital applied to their

1 construction, so, yes, and a portion of that is  
2 the return on equity.

3 SENATOR HUTTO: So doesn't that  
4 --

5 MS. HUDSON: And it -- excuse me.

6 SENATOR HUTTO: That's okay, but  
7 doesn't that give the incentive to borrow the  
8 money rather than paying it out of existing  
9 money? If you can borrow it and get 10 percent  
10 on top of it, you'd have no incentive to spend  
11 your own money.

12 MS. EDWARDS: Well, what happens  
13 is, they obviously go out through bond that's  
14 debt. That -- there's -- they take the capital  
15 ratio -- you know, you have the capitalization  
16 of the company, so you have, let's say, 50  
17 percent debt, 50 percent equity, just to keep --  
18 for purposes of this illustrative example. The  
19 cost of debt is exactly what the cost of debt  
20 is. So let's say that's -- through the various  
21 bond issuances, that's a cost of debt of 5  
22 percent. You don't --

23 CHAIRMAN SETZLER: They're  
24 passing that through.

25 MS. EDWARDS: They are just

1 passing that through; that's correct. Where --  
2 the return on equity is on the equity portion,  
3 so on the other 50 percent, which is the  
4 shareholders, to your point, Senator Setzler, I  
5 mean, yes, there is a return on that equity, and  
6 that would apply to that.

7 CHAIRMAN MASSEY: And it also  
8 removes any incentive to control costs.

9 MS. EDWARDS: Well, there is the  
10 --

11 CHAIRMAN MASSEY: I mean, you're  
12 going to get the interest back on that, right?  
13 There's no real incentive to control cost.

14 MS. EDWARDS: The only incentive  
15 would be if -- to control cost is if the -- if,  
16 through the petition for modification process,  
17 like if you have a asset budget and you had been  
18 held to that budget, then that would have kept  
19 you where you needed to be. But instead, to  
20 your point, Senator Massey, I mean, you know,  
21 the goal post was moved.

22 CHAIRMAN MASSEY: Yeah, I mean,  
23 so, yeah, I mean, there's no -- you get the  
24 return on what you're -- on your expenditures,  
25 and you're guaranteed that you're going to be

1 able to increase the rates. I mean, it's almost  
2 a guarantee. You're in an impossible situation  
3 of defending it. So there -- they have no --  
4 this is -- I mean, I don't know who wrote -- I  
5 mean, this is an impressive writing ability,  
6 right, because, I mean, it was written very,  
7 very well. I mean, it was.

8 CHAIRMAN SETZLER: Yeah, and I  
9 want to go back. Using the example of 10  
10 percent, is that a guaranteed 10 percent, or is  
11 it up to 10 percent? Which does it say?  
12 Because I've heard both, that it's up to 10.25  
13 percent, and then I've heard it's a flat 10.25  
14 percent.

15 MS. EDWARDS: In rate-making  
16 process generally, it's a threshold. It's up-  
17 to. In other words, what you actually earn is  
18 different than what your authorized return is.  
19 Now, in the case of revised rates, I believe the  
20 situation is a bit different. Is that fair, Dr.  
21 Carlisle? It -- and the reason for that is  
22 because it's only applied to the new nuclear  
23 portion, so you have one component of the  
24 company. You don't -- you're not looking at all  
25 the different aspects of the management of the

1 utility.

2                   So, like, if you have the entire  
3 company, you're going to have other costs come  
4 up. You're going to have other issues come up.  
5 So you're not -- most utilities do not earn up  
6 to their authorized rate of return because  
7 there's always regulatory lag, and they always  
8 have more in operating expenses. They don't  
9 necessarily earn their authorized rate of  
10 return, but in the context of revised rates, and  
11 this is where you want -- of interest, you know,  
12 this is -- the revised rates gives them that  
13 because they are getting that on their actual  
14 expenditures at the new nuclear site. So the  
15 answer is different for revised rates.

16                   CHAIRMAN MASSEY: It seems to me,  
17 and this kind of gets to -- I mean, I'm starting  
18 to put the puzzle together. And to--

19                   CHAIRMAN SETZLER: Yeah.

20                   CHAIRMAN MASSEY: -- to get to  
21 something that Senator Scott was talking about  
22 earlier, that -- and I think Nanette made the  
23 comment that -- about being lowballed, I mean,  
24 it seemed to me that there was an incentive from  
25 the very beginning to lowball the initial cost,

1 right, because once you get in at that initial  
2 cost, you're guaranteed you're going to get  
3 increases, and you're going to get the rate of  
4 return on what you spend, and then you've got  
5 the abandonment provision as well. I mean,  
6 there was an incentive for them to -- I mean, it  
7 was all set up perfectly.

8 SENATOR HUTTO: So let me ask you  
9 something. On the Santee Cooper side of it, who  
10 didn't have to go before the PSC, if they wanted  
11 to guarantee their rate of return on their costs  
12 -- which, they didn't even have that obligation,  
13 right? They could do their financing however  
14 they wanted to.

15 MS. EDWARDS: That's correct, and  
16 so --

17 SENATOR HUTTO: So they could  
18 just set their rates to cover not only the cost,  
19 but the principal as well.

20 MS. EDWARDS: And truth told,  
21 Senator Hutto, we have -- I have no way of  
22 knowing how they set their rates or what they  
23 do, but --

24 SENATOR HUTTO: I understand  
25 that, but the -- because the point is, they are

1 not under the jurisdiction of ORS --

2 MS. EDWARDS: Right.

3 SENATOR HUTTO: -- and they don't  
4 come before the PSC, so however they would set  
5 their own rates. I mean, if we're trying to  
6 compare how rates get set, you've got one set of  
7 rates that's getting set with oversight by PSC  
8 with input from ORS, and you've got another set  
9 of rates that's just getting set.

10 MS. EDWARDS: Correct.

11 SENATOR HUTTO: Okay.

12 CHAIRMAN SETZLER: All right, so  
13 let me go back to talking about the rates. You  
14 were very candid in your -- in response to  
15 somebody's question about comparison of rates of  
16 utilities in South Carolina, and you said SCANA  
17 was higher than the others in the state.

18 MS. EDWARDS: The other investor-  
19 owned utilities, yes, sir.

20 CHAIRMAN SETZLER: The investor-  
21 owned utilities. How does Santee Cooper's rates  
22 compare to the investor-owned utilities in South  
23 Carolina?

24 MS. EDWARDS: I do have that,  
25 sir. Just one moment. Yes, sir. Here's what

1 we have. Santee Cooper is -- this is a typical  
2 monthly residential customer bill using a  
3 thousand kilowatt hours. Santee Cooper is  
4 \$125.87, SCE&G is \$147.53, Progress is \$116.50,  
5 and Duke is \$112.62.

6 CHAIRMAN SETZLER: So two of the  
7 investor-owned utilities are less on a monthly  
8 basis than Santee Cooper?

9 MS. EDWARDS: Yes, sir.

10 CHAIRMAN SETZLER: Jeez.

11 SENATOR HUTTO: And then, the  
12 co-op bills would vary in between those as well?

13 MS. EDWARDS: There's divergence  
14 there. We do have that information, or we can  
15 get that information to you.

16 SENATOR HUTTO: But just so that  
17 we have the full picture of -- I mean, everybody  
18 has to pay the utility bill of where their house  
19 is located.

20 MS. EDWARDS: That's correct.

21 SENATOR HUTTO: So some people  
22 have municipal utility, some have co-op, some  
23 have direct Santee Cooper, and then some have  
24 investor-owned. But the only ones that y'all  
25 have any input in on are the three investor-

1 owned.

2 MS. EDWARDS: That's correct.  
3 There is also Lockhart, who's an investor-owned,  
4 but because of the way they're -- they're, like,  
5 a hundred percent equity, and also, they're very  
6 small. So Lockhart is \$134.45, but they do a  
7 lot of purchase power from Duke, so, you know,  
8 you kind of have to take that in mind with  
9 Lockhart. They're a hundred --

10 SENATOR SABB: Mr. Chairman.

11 CHAIRMAN SETZLER: Yes, sir.  
12 Senator from Williamsburg.

13 SENATOR SABB: In the interest of  
14 fairness, though, as it relates to the rates,  
15 one of the benefits that the investor-owned  
16 utilities have is that their customers are close  
17 together.

18 MS. EDWARDS: Well, also, I mean,  
19 Duke and Progress, I mean, they're a much larger  
20 utility as well, and now that they are combined,  
21 so there is that as well. And I think where  
22 you're going is, perhaps, the issue of urban  
23 versus rural --

24 SENATOR SABB: Yes, I mean, and  
25 it's real all over the country. So we're not

1 exactly comparing apples to apples when we look  
2 at those rates.

3 CHAIRMAN SETZLER: Okay. When  
4 you -- go ahead, Senator from Edgefield.

5 CHAIRMAN MASSEY: I was going to  
6 say, I guess, to that point, and maybe we don't  
7 know the answer to this. I guess the question  
8 would be if, for instance, Progress were serving  
9 those same customers, what would their rates be?

10 MS. EDWARDS: And I don't know  
11 that. I can tell you that different investor-  
12 owned utilities -- I mean, certainly, I would --  
13 we're very mindful when we're in a Progress rate  
14 case that their service territories encompass  
15 areas of the state that are more prone to the  
16 poverty level.

17 So, you know, you do have certain  
18 service areas that are, you know -- definitely,  
19 there are counties where you have -- they would  
20 qualify at the poverty level, and I have heard  
21 the Electric Co-ops speak to this point, that  
22 they have more of their customers that are in  
23 housing that's manufactured housing, for  
24 example. So you do have different, I guess  
25 socio-economics for each of the different

1 investor-owned utilities.

2 CHAIRMAN MASSEY: Yeah. I mean,  
3 I think -- look, I think that's an important  
4 thing that Santee Cooper needs to be able to  
5 defend as to why -- I mean, they're not paying  
6 taxes, which is a significant benefit to them.  
7 They need to be able to defend why their rates  
8 are at a higher rate than Duke and Progress, I  
9 think. I mean, because --

10 SENATOR HUTTO: Because they were  
11 building this power plant.

12 CHAIRMAN MASSEY: What's that?

13 SENATOR HUTTO: They were  
14 building the power plant.

15 SENATOR SCOTT: (INDISTINCT) \$4.4  
16 billion they have to compensate.

17 CHAIRMAN MASSEY: would they --  
18 but I think, even if you set that out -- I mean,  
19 I'd be interested in those numbers. Even if you  
20 take out the nuclear part of it as to what their  
21 rates would be compared to Duke and Progress  
22 because, I mean, this information might confirm  
23 something else that I'd heard before, and that  
24 is, I think -- and actually, Mr. Carter may have  
25 said it. I mean, I think they're -- Santee

1 Cooper appears to be relatively competitive with  
2 other people in the Southeast. The question is,  
3 shouldn't they be more than competitive, with  
4 all the benefits that they're getting, as a  
5 public-owned utility? But I think that's  
6 something that they need to be able to answer  
7 going forward.

8 CHAIRMAN SETZLER: All right, the  
9 Senator from Fairfield was next.

10 SENATOR FANNING: Just real  
11 quick, on the comparison with Duke, Duke does  
12 represent -- provide power to a lot of -- whole  
13 bunch of folks in North Carolina, correct?

14 MS. EDWARDS: That's correct.

15 SENATOR FANNING: And if I'm not  
16 incorrect, a lot of that is in rural areas in  
17 North Carolina. So in other words, it may be  
18 true that in South Carolina, they tend to be  
19 closer together, but I think what would be  
20 interesting to know is power rates in North  
21 Carolina in rural areas still being lower than  
22 Santee Cooper and SCE&G. Senator from  
23 Richland?

24 SENATOR SCOTT: But at the same  
25 token, you also have to factor in your

1 commercial customers, too, and whether or not in  
2 the commercial customers, based upon how much  
3 they're actually buying, whether or not they're  
4 discounting that rate and just selling them more  
5 versus just the single customer.

6 And also, in looking at, even  
7 with the rate hike, how did they make up the  
8 \$1.7 billion over that time period? Is that the  
9 25 -- I think the 116 versus 141, does that \$25  
10 more actually represent the build-in of the rate  
11 increases to offset it? So it's -- there have  
12 to be a combination of factors. You can't just  
13 compare one. And what I heard the exchange  
14 said, that whatever the -- Santee Cooper told  
15 them, that's what the co-ops had to pay. And so  
16 there's some questions about the checks and  
17 balances also with that.

18 The other part of looking at who  
19 Santee Cooper in the rural community, who  
20 they're actually selling power to, is it more  
21 farmers who are doing -- planting crops and  
22 other small corporations versus, in these larger  
23 areas, where you've got these large industrial  
24 clients? So just to say you're going to look at  
25 the residential and try to come up with an

1 answer, you've got to factor some other things  
2 into it.

3 SENATOR ALEXANDER: On that --

4 CHAIRMAN SETZLER: Go head,  
5 Senator from Oconee.

6 SENATOR ALEXANDER: Can I just  
7 respond?

8 CHAIRMAN SETZLER: Sure.

9 SENATOR ALEXANDER: One of the  
10 things that you're talking about, the  
11 territories, if I could, I'd be remiss if I  
12 didn't say that also Duke, in South Carolina, in  
13 our area, has quite a bit of rural area, too, so  
14 it's not just limited to North Carolina. They  
15 have -- certainly I would consider many of my  
16 communities they serve as being rural  
17 communities.

18 CHAIRMAN SETZLER: Okay. All  
19 right, Senator from Edgefield wanted to go back  
20 for a minute to the rate of return, or are you  
21 okay?

22 CHAIRMAN MASSEY: I'm curious.  
23 Let's go back to the beginning, all right, with  
24 the Base Load Review Act. Tell me how the 11 --  
25 what was the criteria for establishing the 11

1 percent in the beginning? And I ask that  
2 question because Senator Hutto, one of his  
3 questions awhile ago was that PSC could have set  
4 it at 8 percent or 3 percent, all right? But  
5 what was the criteria to set that in the  
6 beginning?

7 MS. EDWARDS: Okay, so -- and  
8 actually, because of the way the Base Load  
9 Review Act is worded, they could elect -- it was  
10 the utility's option -- they could elect the  
11 last Commission --

12 CHAIRMAN MASSEY: Imagine that,  
13 having an option.

14 MS. EDWARDS: I know. Yes, that  
15 was very nice. They could elect the last  
16 Commission -- the ROE set in the last Commission  
17 rate. Going to that rate case, the 2008 rate  
18 case that they had, and this is true -- because  
19 that was a general rate case, just like it would  
20 be true for any other utility. The way it works  
21 is, you -- there's a model that you run through.  
22 So there is a process involved where you look at  
23 what a reasonable return on equity would be.

24 And certainly, you can go to --  
25 outside of our jurisdiction, you could look at

1       similarly situated -- that's more like the  
2       comparable earnings method, but there's other  
3       methods in arriving at an ROE. Now, typically,  
4       if you have a contested case, we have our own  
5       economist, Dr. Carlisle, and he's here with me  
6       today. He will put in testimony where we  
7       recommend an ROE. But the utility, they, you  
8       know, of course, would have an ROE  
9       recommendation of their own, which would more  
10      than likely be higher than ORS's.

11                So you'd have the utility at a  
12      higher number. You'd have ORS at -- you know,  
13      we -- because we do different modeling and do --  
14      and we look at different methods, you would have  
15      us at a different number. And let's say you did  
16      have some intervenors like the industrial  
17      customers. The industrial customers, as an  
18      intervenor, they'll even go lower. In fact, in  
19      many cases, they will put in ROE testimony -- or  
20      even wal-Mart has -- where they try to drive it  
21      down as low as possible to, like, a 9 percent in  
22      today's world.

23                So when you ask me, what was the  
24      environment like back in 2008, there was a large  
25      number of intervenors in that case. You know,

1           you had the Department of the Navy.

2                       CHAIRMAN MASSEY:  What was the  
3           criteria by which -- I mean, PSC had to set that  
4           rate at 11.

5                       MS. EDWARDS:  Right.

6                       CHAIRMAN MASSEY:  What did they  
7           use to set that rate?

8                       MS. EDWARDS:  Well, I think what  
9           they do is, they hear all the evidence in the  
10          case, and then they weigh that evidence and then  
11          decide.  So when you say, "Is there a criteria?"  
12          I mean, there's not any statutory or specific  
13          item that says -- that I would say guides them.  
14          I mean, Senator Massey, I guess what I would say  
15          to you is, there's subjectivity in the setting  
16          of the ROE.  There is subjectivity.

17                      CHAIRMAN MASSEY:  But was there  
18          subjectivity -- I mean --

19                      MS. EDWARDS:  It's not pure --

20                      CHAIRMAN MASSEY:  Did the PSC  
21          have a choice in this scenario if the utility  
22          elected to go at the 11 percent which they'd  
23          been guaranteed -- which they'd received in the  
24          previous modification?

25                      MS. EDWARDS:  We had a settlement

1 in that 2008 case, and they adopted the  
2 settlement.

3 CHAIRMAN MASSEY: And that  
4 settlement allowed for an 11 percent return.

5 MS. EDWARDS: Yes.

6 CHAIRMAN MASSEY: Right. So then  
7 when SCE&G proceeds, under the Base Load Review  
8 Act, do I understand that they have the option  
9 of choosing that, so then that rate was set --

10 MS. EDWARDS: Yes, sir.

11 CHAIRMAN MASSEY: -- at 11  
12 percent.

13 MS. EDWARDS: Yes, sir.

14 CHAIRMAN MASSEY: All right.

15 MS. EDWARDS: And the only want  
16 to change it under the Base Load Review Act is  
17 if we reached a settlement and they voluntarily  
18 agreed to lower it. We could not change it any  
19 other way.

20 CHAIRMAN SETZLER: Well, that's  
21 clearly a problem with the law.

22 CHAIRMAN MASSEY: So that -- I  
23 mean, there was no ability to -- I mean,  
24 especially if you write in that they've got the  
25 option to -- they got to pick. Well, let me ask

1           this. How does -- outside the Base Load Review  
2           Act, all right, what type of returns are we  
3           typically talking about?

4                       MS. EDWARDS: Okay. In today's  
5           environment, or back in 2008?

6                       CHAIRMAN MASSEY: Well, tell me  
7           today.

8                       MS. EDWARDS: Today -- I actually  
9           had a document prepared by Dr. Carlisle, and I  
10          can make that available to you.

11                      CHAIRMAN MASSEY: Sure. I mean,  
12          I'm curious as to what non-Base Load Review Act  
13          returns are, and I'm also curious as to how  
14          those returns compare to other states that have  
15          regulated environments.

16                      MS. EDWARDS: And Dr. Carlisle,  
17          if you could stay right here just in case I need  
18          you. So Dr. Carlisle, in preparation for today,  
19          in case this question came up, I had him do some  
20          research, and you may want him to speak to this.  
21          But I asked him in particular to focus on the  
22          ROEs that have been set recently because you  
23          don't want to do -- you want to do an apple to  
24          apple comparison. So you don't want to look at  
25          the current -- what we have currently, 10 and a

1 quarter, vis-à-vis something that was set, like,  
2 back in 2013, 2014.

3 So in the Southeast, and I asked  
4 him to focus primarily on the Southeast, we've  
5 got -- I'm -- in the 2017 time frame, in  
6 Florida, you're looking around 10 and a quarter,  
7 10.60. For Dominion in North Carolina, in 2016,  
8 they got 9.90, so a good bit -- it's under 10.  
9 In Virginia, in 2016, again, you're at 9.60,  
10 9.70, and the older cases are higher. So, like,  
11 if I back up to '15, 2013, the numbers go above  
12 10. The highest number I see here is Alabama  
13 Power, and I think they're an outlier. And this  
14 is a 2013 case, and it's 13.22.

15 So, you know, you have some  
16 anomalies, but what Dr. Carlisle would do is, he  
17 would employ one of three methodologies, and he  
18 would look at and then make a recommendation on  
19 what proposed ROE we would recommend in a case.

20 CHAIRMAN MASSEY: So it's  
21 generally, in the Southeast, around 10 percent.

22 MS. EDWARDS: Is that a fair  
23 statement?

24 CHAIRMAN MASSEY: Is that right?

25 I mean --

1 DR. CARLISLE: Yes.

2 CHAIRMAN MASSEY: Okay. All  
3 right. Tell me why -- and this is actually  
4 Senator Setzler's question, but --

5 CHAIRMAN SETZLER: I think we've  
6 answered it.

7 CHAIRMAN MASSEY: Well, but I  
8 think I know the answer to it. But why do we  
9 need to guarantee a rate of return?

10 DR. CARLISLE: You're speaking to  
11 the Base Load Review Act?

12 MS. EDWARDS: I think he's  
13 talking about --

14 CHAIRMAN MASSEY: Or anything.

15 MS. EDWARDS: I think he's  
16 talking (INDISTINCT) -- it's the opportunity to  
17 earn.

18 DR. CARLISLE: It's not  
19 guaranteed, generally speaking, in rate cases.  
20 It is set, and they have an opportunity to earn  
21 that amount. But (INDISTINCT) say it's a return  
22 on a certain rate base. As they add to the rate  
23 base, if the profit doesn't keep up with that,  
24 they fall below the set rate of return.

25 CHAIRMAN MASSEY: Okay.

1                   SENATOR ALEXANDER: I got a  
2 question.

3                   CHAIRMAN SETZLER: Senator from  
4 Ocone.

5                   SENATOR ALEXANDER: Thank you.  
6 So using that example there, is that the ceiling  
7 then?

8                   DR. CARLISLE: It is.

9                   SENATOR ALEXANDER: That's the  
10 top, so they can't go -- what happens if they go  
11 above that rate of return?

12                  DR. CARLISLE: In some cases they  
13 can, if they -- say, suddenly their expenses  
14 drop or something. And different states have  
15 different rules, but I think we would have to --

16                  MS. EDWARDS: We would bring them  
17 in.

18                  DR. CARLISLE: I think we'd have  
19 to show cause.

20                  MS. EDWARDS: If it was over --  
21 if it was something that we saw that was  
22 sustained -- and the utilities know this. If  
23 they are authorized -- let's take 10.2, and we  
24 see they're at 11, we're going to -- that's  
25 going be on ORS. We're going to bring them in,

1 and we do keep up. We report. Dr. Carlisle  
2 works with Utility Rates and Services. He does  
3 a report, and it is on our website.

4 I have the last one. It was as  
5 of June 30th. It's a quarterly report, and so  
6 we show what the authorized is and what their  
7 actuals are. And then what we do is, if we were  
8 to see that, that would be the responsibility,  
9 under today's regime, it would be our  
10 responsibility as ORS to bring a case.

11 CHAIRMAN MASSEY: What's their  
12 actual?

13 MS. EDWARDS: As of June 30,  
14 2017, for SCE&G Electric, their actual is 9.24,  
15 but, again, that's the entire company, you know.

16 CHAIRMAN MASSEY: Right, so they  
17 were at 9.24, and they were authorized up to --

18 SENATOR ALEXANDER: 10.25.

19 MS. EDWARDS: Correct.

20 DR. CARLISLE: That's the  
21 electric side.

22 MS. EDWARDS: That's the electric  
23 side. So, again, for new nuclear, that revised  
24 rates process, that's separate from what you  
25 would consider the overall return on equity for

1 the electric operations.

2 CHAIRMAN MASSEY: So electric,  
3 their actual return was 9.24.

4 MS. EDWARDS: Yes.

5 CHAIRMAN MASSEY: What were they  
6 allowed?

7 MS. EDWARDS: They were allowed  
8 10.25, and on gas, they're allowed 10.25, and on  
9 gas they were 8.84.

10 CHAIRMAN MASSEY: Okay.

11 CHAIRMAN SETZLER: Senator from  
12 Richland.

13 SENATOR SCOTT: In looking at  
14 those guaranteed rates and looking at the  
15 structure for building this nuclear, 1.7 million  
16 came -- 1.7 billion came from taxpayers. The  
17 other 3.2, I'm told, came from the stockholders,  
18 making the 4.9. If I'm guaranteed a rate of  
19 return from 9.4 to 10.4 or 10.2, that means that  
20 the investment made by stockholder doesn't get  
21 hurt at all. They still continue to earn their  
22 same rate of return because I'm guaranteeing it,  
23 and the private taxpayer is actually picking it  
24 up, based upon the additional rates that they  
25 come in and make the request for?

1 MS. EDWARDS: But I think the  
2 advantage -- and I don't know if this answers  
3 your question. Forgive me if this does not  
4 answer your question.

5 SENATOR SCOTT: That's okay.

6 MS. EDWARDS: But what I think  
7 the Base Load Review Act does is, they are  
8 getting, on what they've expended -- they get to  
9 come in once a year.

10 SENATOR SCOTT: Right.

11 MS. EDWARDS: And -- under the  
12 Base Load Review Act, and they get to cover that  
13 financing cost, and as we've already talked  
14 about, there is a component -- we built into the  
15 revised rates with that return. They do get to  
16 keep that. I mean, if you were to say, well,  
17 that doesn't sound like there's any advantage to  
18 the ratepayers in this process at all, but if  
19 these units had been built, when the plant came  
20 online, the intent was, you weren't going to  
21 have this pancaking of interest, and so you were  
22 going to let them come in up to one time  
23 annually, and it's a *may*. They don't *have to*,  
24 but they can choose to come in one time annually  
25 for this revised rates. And the concept was

1       that you would cut off the accumulation of that  
2       AFUDC, and by the time you got, you know, over,  
3       I guess, what, 2009 to 2016, if the first unit  
4       had come online on time, you know, you would  
5       have cut short that pancaking of the interest.  
6       Now, that was the intent, but as you know, where  
7       we are today is, you have these expenditures  
8       through revised rates, and, of course, we're in  
9       a situation where --

10                   SENATOR SCOTT: But there would  
11       have never been an advantage for the customer  
12       because the customer actually guaranteed the  
13       stockholders' investment, and the stockholders  
14       never stopped making the dividend or the return  
15       on the investment because it was picked up each  
16       time with the increase in the rate the way the  
17       legislation was built. And it meant the company  
18       who actually put the plan together really didn't  
19       have any exposure because the ratepayer now was  
20       paying for all exposure they may have.

21                   And so I'm trying to figure out  
22       with that analysis -- the company now is upset  
23       when you say, we're going to discontinue these  
24       nine rate increases you had, and the question to  
25       me is, why would the company be upset? Because

1       you've already paid out on the return of the  
2       \$4.9 billion they had invested in the plant, and  
3       where would there still be a need to continue to  
4       collect the money and continue to get a return  
5       on the investment because if you're not spending  
6       any money, you're compounding additional money  
7       that's actually coming in and going to the  
8       company -- unless I got this thing wrong.

9                   MS. EDWARDS: No, and again, I  
10       don't want to sound like I'm defending the  
11       company.

12                   SENATOR SCOTT: Okay.

13                   MS. EDWARDS: But what they would  
14       say is -- and this is actually what they did  
15       say. As you know, we filed a request for rate  
16       relief to suspend the collection of revised  
17       rates. That's about 445 million annually.  
18       That's that 18 percent that's built into the --

19                   CHAIRMAN SETZLER: It's how much?

20                   MS. EDWARDS: It's 18 percent.  
21       It's 34 million monthly, and so it's -- about 18  
22       percent of the average residential customer's  
23       bill is related to new nuclear. I think that's  
24       correct.

25                   So to answer your question, the

1 CFO, Jimmy Addison, in their motion to dismiss  
2 our request for rate relief, their response to,  
3 well, why do you need to keep the -- or, why  
4 should the 445 million continue to be billed, he  
5 alludes to the fact that they have spent 3.7 --  
6 I want to say 3.79 billion that they have in --  
7 that they have expended on the new nuclear  
8 units, and that when you -- his assertion is  
9 that when you go to stop the collection of  
10 revised rates, that creates a problem in terms  
11 of them being able to continue operating the  
12 utility and attract capital and invest. Now,  
13 that's -- again, I'm quoting affidavit that was  
14 filed in support of their motion to dismiss our  
15 request for rate relief.

16 CHAIRMAN SETZLER: All right, I  
17 want to follow up on what the Senator from  
18 Richland just asked you, though, to be sure,  
19 again, that we're correct. I understood you to  
20 say that they're collecting \$34 million a month  
21 from the ratepayers under this procedure.

22 MS. EDWARDS: Yes, sir.

23 CHAIRMAN SETZLER: Which is --

24 MS. EDWARDS: Oh, I'm sorry. I  
25 said that erroneously. I said 34. It's 37

1 million.

2 CHAIRMAN SETZLER: Okay, \$37  
3 million a month, which is --

4 SENATOR SCOTT: Four hundred --

5 CHAIRMAN SETZLER: Yeah, nearly  
6 400 million a year. But of that 37 million  
7 they're collecting a month, if I'm understanding  
8 you correctly, 10 percent of that is a rate of  
9 return that they're getting on that money, so  
10 the ratepayers are not -- they're paying \$3.7  
11 million a month --

12 SENATOR SCOTT: Rate of return.

13 CHAIRMAN SETZLER: -- rate of  
14 return to SCANA.

15 SENATOR SCOTT: Right.

16 MS. EDWARDS: I don't know if I  
17 can --

18 CHAIRMAN SETZLER: On money that  
19 they -- that's pass-through money, if I'm  
20 understanding correctly.

21 MS. EDWARDS: There is a return  
22 component to the revised rates. I'm not sure I  
23 follow the numbers, but if you guys can -- if  
24 you want to speak to it, feel free.

25 DR. CARLISLE: what they're

1 collecting now is based off of the last time  
2 they were in for revised rates, and it does  
3 include a return on equity component.

4 CHAIRMAN SETZLER: Yeah, we  
5 clearly understand it's on the last rate case,  
6 but, again, in the example, if they're  
7 collecting \$37 million a month from the  
8 ratepayers of this state --

9 MS. EDWARDS: Right.

10 CHAIRMAN SETZLER: -- they're  
11 getting \$3.7 million a month --

12 MS. EDWARDS: I see what you're  
13 --

14 CHAIRMAN SETZLER: -- in rate of  
15 return on money that is just pass-through money  
16 that's supposed to be financing that they got.  
17 Is that correct?

18 MS. EDWARDS: I believe so.

19 CHAIRMAN SETZLER: Okay.

20 SENATOR SCOTT: Or -- let me back  
21 up.

22 MS. EDWARDS: But I don't know  
23 how --

24 SENATOR SCOTT: Or is this \$3.7  
25 million we're paying because the stockholders

1 have got the 3.2 in and they think they need to  
2 still be able to use this money to still cover  
3 the stockholders' return on the investment?

4 MS. EDWARDS: I don't know if I  
5 can say it's 10 percent of the 37 million. I  
6 don't know if I can say that's that accurate.  
7 But what I can say is that there is a return of  
8 equity component.

9 SENATOR SCOTT: I understand.

10 MS. EDWARDS: And perhaps Dr.  
11 Carlisle can speak to it.

12 DR. CARLISLE: No, the 10 percent  
13 would be if it was all equity, but there's part  
14 of it that's debt.

15 MS. EDWARDS: So if it --

16 DR. CARLISLE: So take half of --

17 CHAIRMAN SETZLER: About half of  
18 it.

19 DR. CARLISLE: About half of it.

20 MS. EDWARDS: That would be a  
21 more accurate answer.

22 SENATOR SCOTT: So I want to go  
23 back to my original question.

24 CHAIRMAN SETZLER: So 2 million a  
25 month.

1                   SENATOR SCOTT: Two million,  
2 three million, that still (INDISTINCT) to do  
3 nothing.

4                   CHAIRMAN SETZLER: Twenty-four  
5 million dollars a year out of the ratepayers.

6                   SENATOR SCOTT: So is that money  
7 being used because the stockholders have  
8 invested at 3.2 to 3.7, whatever, billion  
9 dollars in and they're trying to make sure they  
10 get the rate of return? Is that what that  
11 money's all about?

12                   MS. EDWARDS: I think it was --  
13 and, again --

14                   SENATOR SCOTT: I understand.

15                   MS. EDWARDS: -- this was my  
16 understanding of the Base Load Review Act. It  
17 was set up in this manner so as to be able to  
18 attract the capital to invest. That's my  
19 understanding. And is it -- I --

20                   SENATOR SCOTT: So in essence, if  
21 we pull it back, they cannot pay the investors  
22 who've invested this money in, and that's where  
23 the problem comes in. And so we're still asking  
24 whether they --

25                   MS. EDWARDS: And actually,

1 Senator Scott -- and I didn't mean to interrupt.

2 SENATOR SCOTT: No, please.

3 MS. EDWARDS: But I would point  
4 out that it's that plus the bondholders.

5 SENATOR SCOTT: Okay.

6 MS. EDWARDS: You know, it's the  
7 debt side as well. And he did, the -- Jimmy  
8 Addison, in his affidavit, he very clearly  
9 pointed that out, that by -- if ORS's request  
10 for rate relief was granted, that -- and there  
11 was the immediate suspension of the collection  
12 of the revised rates, he did point out that that  
13 would be an issue, given their, you know, cost  
14 of debt.

15 SENATOR SCOTT: So is this short-  
16 term debt, long-term debt?

17 MS. EDWARDS: They -- it's long,  
18 long-term.

19 SENATOR SCOTT: So the 3.2 is --  
20 SCANA's part is long-term debt, and, actually,  
21 the private customer, the customers actually  
22 were the ones who were actually paying on the  
23 debt.

24 MS. EDWARDS: Yeah. They're  
25 covering the financing costs to the extent that

1 SCE&G has come in to collect. I would point out  
2 that from June 30th of '16 through today, there  
3 has not been a revised rates request. They  
4 would normally have filed for 2017, and I think  
5 they did, but -- and they did. With their  
6 petition for abandonment, they also filed a  
7 revised rates request, but then subsequently  
8 withdrew both.

9 SENATOR SCOTT: So in the event  
10 if you roll back the rate increases, then the  
11 company has tremendous exposure and have an  
12 outstanding debt that they actually can't pay.

13 MS. EDWARDS: Now, that, I can't  
14 answer. That would be something that, I think,  
15 SCE&G or SCANA would have to be.

16 SENATOR SCOTT: Well, based on  
17 cash flow, if I'm paying out half a billion  
18 dollars a year, unless my return from the  
19 customer when I roll it back to what my rate  
20 would have been nine years ago -- and I'm pretty  
21 sure we're going to come back to the 116 and  
22 \$109 per customer -- and I don't have the extra  
23 money in it per month, that money's got to come  
24 from somewhere to be able to pay the debt  
25 service.

1                   In the analysis -- and I know  
2                   there was a recommendation that went forth to  
3                   the Commission -- was there an analysis done to  
4                   take a look at how that would play out? Because  
5                   I know the general public is asking for relief.  
6                   If you're not going to build a plant, we can't  
7                   foresee continuing to give you money to pay on  
8                   your debt service. And so the question is,  
9                   How's that going to work, how's that going to  
10                  play out, and will the Base Review Act be used  
11                  as protection and so that they don't have to pay  
12                  on that the investment, that the customer  
13                  continue, you continue to collect the money, and  
14                  we end up in a long-term lawsuit over it?

15                  MS. EDWARDS: The short answer  
16                  is, we raised the issue because the Attorney  
17                  General had issued their opinion that, you know,  
18                  it -- Base Load Review Act is constitutionally  
19                  suspect. To answer your question, Senator  
20                  Scott, I believe that if our request actually is  
21                  not dismissed and there's oral arguments on our  
22                  pleading -- if it's not dismissed, I believe  
23                  these are issues that are going to go before the  
24                  Commission, and I think the company, at that  
25                  time, if this actually goes to hearing, the

1           company is going to probably many of the points  
2           that you just raised.

3                         CHAIRMAN SETZLER: All right. I  
4           think you just gave us an opportunity to segue  
5           into what one of the other issues we wanted to  
6           cover, just Senator Massey and myself as co-  
7           chairs, and then if other members have other  
8           questions, and I know -- and that is, segue  
9           into, what is currently pending?

10                        MS. EDWARDS: Yes, sir.

11                        CHAIRMAN SETZLER: So that we  
12           have a full understanding. And we also  
13           understand and appreciate that there may be  
14           things you cannot comment on, and we would  
15           respect that if you tell us, but what we want to  
16           know is, what is filed? what is the effect of  
17           that filing being granted or not granted? And,  
18           basically, that's it.

19                        MS. EDWARDS: Okay. I actually  
20           do have a cheat sheet, actually, around --

21                        CHAIRMAN SETZLER: I think we  
22           have that.

23                        MS. EDWARDS: You have that cheat  
24           sheet?

25                        CHAIRMAN SETZLER: We have that.

1                   MS. EDWARDS: Well, I'm going to  
2                   -- and Shannon, if you would stay up here.  
3                   Shannon's our deputy chief counsel, and she has  
4                   done the yeoman's work of making these filings,  
5                   but at a high level, you have a -- the fact that  
6                   SCE&G originally filed for a petition for  
7                   abandonment, they filed a request for revised  
8                   rates. Shannon, you want to speak to the fact  
9                   that you filed for a motion to dismiss?

10                  MS. HUDSON: Sure. ORS filed a  
11                  motion to dismiss in the abandonment case and  
12                  the request for revised rates, and a couple of  
13                  weeks later, SCE&G withdrew those requests. And  
14                  there are currently two dockets that are  
15                  pending.

16                  MS. EDWARDS: So for now, you  
17                  also have the fact that the Friends of the Earth  
18                  and Sierra Club, represented by Bob Guild, had  
19                  filed a complaint -- I want to say it was June  
20                  22, 2017. And they asked for similar, if not  
21                  the same, relief. They wanted to, one, suspend  
22                  the collection of the revised rates. They  
23                  wanted to cease spending any further on the  
24                  nuclear project. I think they also asked for a  
25                  refund of what had been spent.

1                   SCE&G filed a motion to dismiss,  
2                   and when ORS did file its request for rate  
3                   relief, now where the Commission stands is, we  
4                   have our open docket, and we have a procedural  
5                   process where we're going to deal with the  
6                   motion to the dismiss, and we're going to have  
7                   oral argument on that on December 12th.  
8                   Meanwhile, with the complaint case submitted by  
9                   Friends of the Earth and Sierra Club, the  
10                  question has come up, you know, with regard to  
11                  whether or not these two cases should be  
12                  consolidated.

13                   CHAIRMAN SETZLER: Which two?

14                   MS. EDWARDS: The complaint case  
15                  with ORS's request for rate relief.

16                   CHAIRMAN SETZLER: Okay.

17                   MS. EDWARDS: And so I think, as  
18                  we stand here today, there's been no Commission  
19                  order consolidating the complaint case with our  
20                  request for rate relief as we stand here today,  
21                  but I do think that that request is out there to  
22                  consolidate.

23                   MS. HUDSON: There have been  
24                  opinions from parties that there's no reason  
25                  they could not be consolidated. You know, it's

1       worth noting that the Friends of the Earth  
2       complaint was filed prior to the announcement of  
3       abandonment, so there's a timing with that. So  
4       after the Friends of the Earth complaint and the  
5       Sierra Club's complaint was filed, then SCE&G  
6       abandoned, so a portion of what they requested  
7       is over, is done, yeah.

8                   MS. EDWARDS: And so I guess the  
9       only other thing I would add to that is, there's  
10      a significant number of entities that have  
11      intervened or requested to intervene in the  
12      request for rate relief.

13                   CHAIRMAN SETZLER: Senator from  
14      Fairfield.

15                   SENATOR FANNING: Just  
16      clarification. You said a portion of what they  
17      requested is done.

18                   MS. HUDSON: So the Friends of  
19      the Earth and Sierra Club requested that the  
20      Commission look at abandonment.

21                   SENATOR FANNING: Right.

22                   MS. HUDSON: After that complaint  
23      was filed, then SCE&G announced that they were,  
24      in fact, abandoning.

25                   SENATOR FANNING: But then they

1       withdrew that, and currently we have no approved  
2       plant of abandonment, correct?

3                   MS. HUDSON: The request on how  
4       to treat abandonment was withdrawn, but the act  
5       of the announcement, the press release that  
6       SCE&G was abandoning, has not been retracted, so  
7       that still stands. But as far as -- let me  
8       start over, if you don't mind. There are four  
9       dockets. I'm going to call them by number.  
10      Docket Number 244: That's -- in that docket,  
11      SCE&G filed a petition asking that the  
12      Commission approve abandonment, asking that the  
13      Commission approve abandonment. ORS filed a  
14      motion to dismiss. We felt that SCE&G had filed  
15      under inappropriate sections of the Base Load  
16      Review Act. SCE&G subsequently withdrew that  
17      petition from the Commission to give the General  
18      Assembly time to look at the matter.

19                   Docket Number 246 was the request  
20      for revised rates. The ORS motion to dismiss  
21      was also filed in that same docket because we,  
22      again, also felt that the request for revised  
23      rates was misplaced, considering the  
24      abandonment, so SCE&G also withdrew its request  
25      for revised rates, again, stating to give the

1 General Assembly time to look at the matter.

2 Docket Number Three is 207. Now,  
3 that's the Friends of the Earth and Sierra Club  
4 complaint, and it was filed June the 22nd.  
5 SCE&G's press release announcing the abandonment  
6 was August the 1st, I recall. So the Friends of  
7 the Earth complaint, in part asking the  
8 Commission to look at whether or not SCE&G  
9 should abandon the plant, that came to fruition  
10 about a week later when SCE&G announced to the  
11 public that they were abandoning it. Does that  
12 make sense?

13 SENATOR FANNING: But they've  
14 subsequently withdrawn any request to abandon or  
15 plan of abandonment.

16 MS. HUDSON: They're -- that's  
17 correct, before the Commission. They withdrew  
18 their request before the Commission.

19 CHAIRMAN MASSEY: I mean, and I  
20 think -- and help me out here, Shannon, if I'm  
21 right. What the -- they still have no plans to  
22 complete the project, right? They fully intend  
23 to abandon the project. What this is -- this is  
24 just the motion that would allow them to recover  
25 their costs for abandonment, and it would

1 include a finding from the Commission that it is  
2 prudent for them to abandon the project, right?

3 SENATOR FANNING: In other words,  
4 they've walked away from the project, but  
5 they've received no approval of their  
6 abandonment, for not just recovery, but --

7 CHAIRMAN MASSEY: To recover  
8 their costs.

9 CHAIRMAN SETZLER: To recover  
10 their costs.

11 CHAIRMAN MASSEY: I don't know  
12 that we could make them do it.

13 SENATOR FANNING: well, and it's  
14 not just not recover the costs. They -- to get  
15 back to the 37 million a month, they're  
16 currently charging customers 18 percent more for  
17 reactors that either they're walking away from  
18 on their own and we can't stop them, which would  
19 be a problem if they're continuing to use a rate  
20 increase that we gave them to do, or -- in other  
21 words, I would hate to think that ORS and the  
22 PSC would have no authority to stop an  
23 abandonment when they're continuing to take  
24 money from consumers for something that --

25 CHAIRMAN MASSEY: Look, they

1 intend --

2 CHAIRMAN SETZLER: That's part of  
3 what we're asking.

4 SENATOR FANNING: No, but --

5 CHAIRMAN MASSEY: But they intend  
6 that, even if PSC approves the abandonment, they  
7 still want to collect that \$37 million a month.

8 SENATOR FANNING: And I'm with  
9 you a hundred percent on that. I guess this was  
10 the first time I had from ORS out loud that they  
11 acknowledge that it has been abandoned, right,  
12 because you're saying that we don't need to hear  
13 that portion of the Friends of the Earth  
14 complaint because it argues that it should not  
15 continue, and, in fact, it is not continuing  
16 because it's abandoning.

17 MS. EDWARDS: I think the short-  
18 circuit answer to this is, SCE&G has not  
19 received an order from the Commission finding  
20 that abandonment is prudent. I think what  
21 you're seeing, Senator Fanning, is, part of the  
22 complaint of the Friends of the Earth that  
23 basically wanted to have the Commission order  
24 the utility to immediately stop spending out at  
25 the nuclear site.

1                   well, in essence, SCE&G gave them  
2                   what they asked for because they, on their own  
3                   motion, decided to make that announcement, and  
4                   to my comment that I made earlier, we, as ORS,  
5                   even as of last week, we are seeing that the  
6                   company is moving towards abandonment and is  
7                   shifting greatly in that direction as opposed to  
8                   preservation. And we do have some concerns  
9                   about that because we know that there -- at this  
10                  point, there has been no decision by the  
11                  Commission saying, Yes, abandon, yes, and then  
12                  you would deal with the abandonment cost issues.  
13                  That would be the next -- that would be part of  
14                  that process.

15                   CHAIRMAN MASSEY: They're telling  
16                  --

17                   SENATOR FANNING: I'm very  
18                  sensitive to that because what they're  
19                  abandoning is on my land. I mean, that's --  
20                  there are literally two-thirds complete reactors  
21                  --

22                   MS. EDWARDS: I understand.

23                   SENATOR FANNING: -- abandoning,  
24                  and I know that they have stopped work, and I  
25                  have heard the attitude of, we get the bonuses

1 because they were tied to what went well and not  
2 what went poorly, and we don't have any plans  
3 whatsoever to continue. And I'm fully cognizant  
4 of that. I would hate for any State entity that  
5 has approved a project to use the word  
6 "abandoned" because they have stopped work on  
7 the project, and we can't stop them from that,  
8 but I don't know that we should participate in  
9 any way in --

10 CHAIRMAN MASSEY: They have -- my  
11 understanding is, they're telling the IRS that  
12 they're abandoning, right, because they're  
13 seeking tax credits based on quitting, right?  
14 But I am, I am curious, though, whether either  
15 of the two pending cases, whether you could kind  
16 of bootstrap a prudence question onto either of  
17 those pending cases, such that, could SCE&G  
18 essentially reassert its abandonment petition --

19 MS. EDWARDS: As part of the --

20 CHAIRMAN MASSEY: -- as part of  
21 one of the pending cases? Could the PSC act on  
22 a -- could they make a finding on prudence of  
23 the abandonment with one of those pending cases?

24 MS. EDWARDS: Shannon, what do  
25 you think? I'm thinking no.

1 MS. HUDSON: I agree. Senator  
2 Massey, I think the current structure of those  
3 two dockets are such that the Commission could  
4 not make that determination without a request.  
5 I would think that SCE&G or type of settlement  
6 or a collection of parties would ask for the  
7 make that determination. Well, I think SCE&G  
8 would have to be included in making that  
9 request.

10 CHAIRMAN MASSEY: Right, so --  
11 but SCE&G could make that request under one of  
12 the pending cases.

13 MS. HUDSON: I think so, yes.

14 SENATOR FANNING: Why would SCE&G  
15 make the request?

16 CHAIRMAN SETZLER: Because that's  
17 the way they get their money.

18 CHAIRMAN MASSEY: Because if they  
19 get a finding that it was prudent to abandon the  
20 project, then there's an approval to recover  
21 their abandonment costs.

22 SENATOR FANNING: And we, or, at  
23 least, the Senator from Fairfield would also  
24 want the PSC to rule on abandonment.

25 CHAIRMAN MASSEY: I think you

1 would want them to find that it was imprudent.

2 SENATOR FANNING: Correct, but in  
3 other words, it would be an opportunity to rule.  
4 Right now, you're telling me we have no way of  
5 ruling on abandonment. This would give a  
6 position to --

7 CHAIRMAN MASSEY: Yeah, and, of  
8 course, the issue here, too, is that I assume on  
9 that question, it would be just like any other  
10 question under the Base Load Review Act. It's  
11 going to be up to everyone else to prove that it  
12 is imprudent.

13 MS. EDWARDS: Well, actually,  
14 that was part of the motion to dismiss that  
15 Shannon talked about. It would be ORS's  
16 position, and that's what we asserted in the  
17 motion to dismiss, that under the section for  
18 abandonment, that that -- it's our position the  
19 utility would need to prove prudence of  
20 abandonment. That's our position. Now, whether  
21 or not everybody agrees with that, I don't know.

22 SENATOR FANNING: I agree with  
23 that.

24 CHAIRMAN SETZLER: That's what  
25 we're trying get at.

1 SENATOR FANNING: I'm with you.

2 CHAIRMAN MASSEY: Could ORS file  
3 a motion with the PSC to reopen the 2015  
4 modification based on new evidence that has come  
5 forward?

6 MS. EDWARDS: Well, okay. In --  
7 on -- in a -- there is a -- when we filed our  
8 request for rate relief, we did include a  
9 provision -- we didn't just solely rely on the  
10 Attorney General's opinion that is recently  
11 released. We did include in there that there is  
12 an allegation that information was not provided  
13 and, to the extent that that was the case, that  
14 -- we wanted to preserve our opportunity to  
15 raise that issue with regard to the request for  
16 rate relief. So we did include that as part of  
17 the petition.

18 CHAIRMAN MASSEY: Because it  
19 seems to me if the -- I mean, even if they have  
20 the burden of proving prudence at this point, if  
21 you just look at it from the standpoint of where  
22 they are, it's probably not a difficult hurdle  
23 for them. But if you go back and you look,  
24 especially with all the evidence that's come  
25 forward recently, if you go back and look over

1 the last two years, I mean, it seems to me like  
2 they kind of -- they've created the problem.  
3 But now, if you're just looking at it from what  
4 the situation is today, it seems like an easier  
5 consideration unless you look at what got them  
6 to this point, right?

7 MS. EDWARDS: Right.

8 CHAIRMAN MASSEY: I mean, that's  
9 one of my concerns about that.

10 MS. EDWARDS: Right. I mean, I  
11 do think, and I'm just being candid here, when  
12 we filed that request for rate relief, in the  
13 back of our minds, there's a question where, you  
14 know, 2015, 2016 revised rates cases. So that  
15 is part of our request for relief. Now, the  
16 major thrust of the filing is, you know, we have  
17 an Attorney General opinion that now raises the  
18 question of constitutionality. We felt that we  
19 could not -- we felt that that issue had to go  
20 before the Commission.

21 I know there's arguments that, of  
22 course, ultimately this would probably end up  
23 before the South Carolina Supreme Court, but we  
24 felt, as ORS, that we needed to -- and the only  
25 vehicle we really have to get it before the

1 Commission is a request or a pleading that we  
2 file with them. And so that's how we chose to  
3 handle -- to raise the issue. Part of that is  
4 the fact that we do have this issue about  
5 information being provided that -- you know,  
6 with regard to the 2015, 2106 revised rates  
7 cases.

8 CHAIRMAN SETZLER: All right.  
9 Let me follow up just a minute. On those  
10 pleadings, clarify -- because I'm not sure  
11 exactly where you are.

12 MS. EDWARDS: Okay.

13 CHAIRMAN SETZLER: Has ORS filed  
14 anything or has anybody else filed anything to,  
15 say, ask the Commission to determine that the  
16 abandonment was imprudent?

17 MS. EDWARDS: No. Well, I mean,  
18 I would say that the closest you would come  
19 would be the complaint case by the Friends of  
20 the Earth and Sierra Club because they do have  
21 in here, determine the prudence of the  
22 abandonment of the nuclear project. So that --  
23 their complaint would be probably the closest to  
24 that.

25 CHAIRMAN SETZLER: So if that's

1 not there -- you made reference to an agreement.  
2 Any -- of course, I don't know how you ever get  
3 an agreement with all that's going on in this  
4 matter now. There would be no agreement as to  
5 prudence.

6 MS. EDWARDS: As part of the  
7 request for rate relief, I don't know that  
8 within -- I mean, certainly, we have not raised  
9 the abandonment issue as part of that case, and  
10 I think that's where you're driving to, and we  
11 have not.

12 CHAIRMAN SETZLER: Okay.

13 CHAIRMAN MASSEY: And I think if  
14 there are any requests for settlement  
15 discussions that include an agreement that it  
16 was prudent to abandon the project, I would  
17 encourage ORS to look at that very skeptically.

18 MS. EDWARDS: Yes, sir., I will.

19 CHAIRMAN SETZLER: Senator from  
20 Fairfield.

21 SENATOR FANNING: Clarifications.  
22 One, if there is no abandonment plan approved,  
23 they're just walking away, is there anything  
24 that your office can do to ensure that they're  
25 not selling parts? Now, we've had this

1 discussed in prior meetings, and I was assured  
2 they couldn't be selling parts because there was  
3 no abandonment plan approved. But if you're  
4 saying they're proceeding with abandoning, are  
5 there any assurances?

6 MS. EDWARDS: I think the  
7 assurance -- the only assurance you have --  
8 Senator Fanning, the only -- there's nothing to  
9 stop them that I know of from selling. I mean,  
10 I can't stand here and say that. What I can  
11 tell you is that if they do, and if they then  
12 seek to recover, you know, some sort of --  
13 whether it's the abandonment cost -- because  
14 whatever they're selling, they're going to get  
15 less on the dollar than what they paid for it.

16 But to me, this issue of preserve  
17 versus abandon, we need to get to a resolution  
18 on that pretty quickly because I think if we're  
19 going to preserve, that is not what we're seeing  
20 at this time. And as ORS, the best that we can  
21 do for you and for the General Assembly and  
22 South Carolina is, we can observe, report, and  
23 make our findings to you and make that public.  
24 We can, obviously, to the extent that, you know,  
25 Santee Cooper wants to preserve but SCE&G wants

1 to abandon, you've got two partners to a  
2 project, and that's an issue as well.

3 SENATOR FANNING: And Mr.  
4 Chairman, we talked about the 37 million a month  
5 that they would recoup, but if they sold off the  
6 parts, they would keep a hundred percent of that  
7 money while they were keeping the 37 million a  
8 month, and so that concerns me. And I guess  
9 just one other question connected with this, and  
10 you're telling me -- I think you're telling me  
11 that this is impossible. So no one is looking  
12 at the prudence of walking away -- which will  
13 cost the 9.5 billion plus an additional 4.9  
14 billion, minus the Toshiba money -- with  
15 absolutely nothing versus the prudence of  
16 finishing. There's no process that would allow  
17 a prudence hearing of walking away.

18 MS. EDWARDS: There's not. When  
19 SCE&G withdrew that petition, it's not currently  
20 before the Commission at this time, Senator  
21 Fanning. Now, I do think that, obviously,  
22 Santee Cooper -- I mean, not Santee -- SCE&G  
23 wants to recoup those abandonment costs.

24 SENATOR FANNING: Oh, sure.

25 MS. EDWARDS: And so in essence,

1       what's going to drive them back before the  
2       Commission ultimately is another petition for  
3       abandonment. You know, they've stated publicly  
4       that they hope to reach some sort of resolution  
5       or accord on this matter with the General  
6       Assembly, which they would hope to do. But as  
7       we stand here today, that's just not the case.

8                   SENATOR FANNING: But not only  
9       was there no wording in the Base Load Review Act  
10      that allowed for a determination of prudence of  
11      walking away or abandonment, there's no  
12      procedure that even allows for a hearing on  
13      that.

14                   MS. EDWARDS: No, I would not say  
15      that that. I mean, there is the --

16                   SENATOR FANNING: Other than the  
17      recovery of money.

18                   MS. EDWARDS: well, in order --  
19      well, I see where your line is now. You're  
20      saying, you know, if they just wanted to walk  
21      away and eat the abandonment costs, arguably, I  
22      guess they wouldn't have to go before the  
23      Commission.

24                   SENATOR FANNING: well,  
25      theoretically, they're keeping the Toshiba

1 money. If they sell off all the parts without  
2 having to report to anyone, there are plenty of  
3 other ways that they could recoup money, and the  
4 parts that they would sell off and get money  
5 from --

6 MS. EDWARDS: Right.

7 SENATOR FANNING: -- are parts  
8 that were paid for by consumers. In other  
9 words, they get the money twice without, it  
10 appears to be, any ability for ORS to even  
11 regulate that.

12 MS. EDWARDS: Well, there is one  
13 thing I would point out. If they go and they  
14 want to take the tax write-off, my understanding  
15 -- and I am not a tax expert, but my  
16 understanding is if they want to take the tax  
17 write-off on the equipment and they want to do  
18 that this year, if they want to get that done  
19 before December 31st, I don't think they can  
20 take the tax write-off and get the money on that  
21 same piece of equipment. Does that make sense?  
22 I think you look at, well, are you going to get  
23 a better deal taking the tax write-off, or are  
24 you going to get more money by selling the  
25 asset? But I don't think you can -- I think

1       what you do is you look at -- they're going to  
2       want to take the tax write-down. That's where I  
3       think they're headed.

4                       Now, to some extent, they, you  
5       know -- what we've noticed is -- like, let's say  
6       there's a piece of equipment out there that's of  
7       great value, was paid a great amount of money.  
8       Director Anthony James was telling me over the  
9       lunch break what -- one of the things that's  
10      concerning to us is, you know, in order to keep  
11      the value of that component for possible  
12      preservation, you've got to do things with that  
13      piece of equipment, and there is a question in  
14      our mind, How much of that is going on? And  
15      again, there is a set of discovery questions at  
16      ORS right now that we're working on to send over  
17      to the company to that point.

18                      CHAIRMAN SETZLER: All right, any  
19      other -- Senator from Williamsburg. I'm sorry.

20                      SENATOR SABB: Sure, and I just  
21      want to talk about Senator from Edgefield's  
22      point because, you know, we specifically asked  
23      them the question when they said that they were  
24      having their board meeting, we asked them  
25      whether or not the sale of any of those parts

1 were a part of the presentation that they were  
2 going to make with the recommendations, and my  
3 memory serves me correctly, they said that that  
4 was not going to come up, and that was not  
5 something that they were going to do.

6 So I guess what I'm curious about  
7 at this point is whether or not the activities  
8 associated with more abandonment than preserving  
9 -- did those activities take place after our  
10 last meeting, which would have been on October  
11 the 11th, between then and now? Is that when?

12 MS. EDWARDS: Well, Senator, let  
13 me be clear. I'm not standing here saying that  
14 they've actively sold components. What I am  
15 saying is that we see activities at the site  
16 that would lend themselves more towards  
17 abandonment than for preservation.

18 SENATOR SABB: Can you speak more  
19 specifically please?

20 MS. EDWARDS: Okay. Director  
21 James, you might want to add to this.

22 MR. JAMES: We were out at the  
23 site. I'm Anthony James, director of Energy  
24 Policy. We were out at the site last Tuesday,  
25 and we did tour the site, and there's activity

1 out there, and it does appear that they're  
2 actively pursuing abandoning equipment.

3 SENATOR SABB: Okay, so you have  
4 to hopefully appreciate the fact that I have no  
5 idea about what kind of activity that would be  
6 taking place that would be consistent with  
7 abandonment. So if you could speak a little  
8 more specifically for me on the type of activity  
9 that was observed that led to the conclusion  
10 that you just shared.

11 MR. JAMES: Well, certainly. I  
12 think, for starters, they're removing a lot of  
13 the large equipment, the cranes and large  
14 trucks. Those are being removed from the site,  
15 so that's kind of step one. But after going  
16 through the site and talking to the  
17 representatives at the site, we learned that  
18 equipment that doesn't have a great salvage  
19 value -- and that would be components that are  
20 in place, cannot be extracted without some great  
21 expense -- those have little salvage value to  
22 them, and so they are not being maintained. And  
23 those can be components that are fairly  
24 expensive. So that was a first concern.

25 other items that they do believe

1 have a great salvage value, they are preserving  
2 those at the site. But as we walk away -- and  
3 we asked about containment, the containment  
4 vessel. It's exposed to the elements right now.  
5 So we asked were they going to cover that.  
6 Their answer is, we have no intent to cover  
7 that. And it's, as I understand, if you don't  
8 cover that and expose it to elements, you're  
9 going to find yourself in a position where you  
10 can't recover the site. So unless something  
11 happens in rather short order, I don't believe  
12 the option --

13 SENATOR SABB: what would be the  
14 time frame that would be necessary in order to  
15 preserve?

16 MR. JAMES: The experts that I  
17 accompanied on site, it's an immediate response  
18 that needs to take place. This decision is very  
19 time sensitive. If you do allow some of the  
20 concrete in the containment to continue to be  
21 exposed to the elements, falling debris, you're  
22 going to find yourselves where the NRC is going  
23 to find that it's unacceptable to actually  
24 recover those portions of the site. So I think  
25 that's something that would need to be taken

1 into account very soon.

2 SENATOR SABB: Okay. Thank you,  
3 Mr. Chairman.

4 CHAIRMAN SETZLER: So let me  
5 follow up on that question because that's a  
6 great question. So does ORS have the ability to  
7 file something to require them to at least cover  
8 it and protect it, if not mothball it?

9 MR. JAMES: Well, I think we  
10 asked some of those similar questions, you know,  
11 and SCE&G, they're on a path of abandonment, and  
12 if you want them to go to a different path,  
13 that's going to cost money. And we asked, well,  
14 is there a way to do both? And they said, You  
15 decide which path you're going. They're going  
16 abandonment. If someone directed them to go to  
17 a preservation path, I don't believe they would,  
18 you know, have an issue. I believe they want to  
19 be compensated for it. But that's not the case.  
20 We're trying to get that before the people that  
21 need to know --

22 CHAIRMAN SETZLER: I believe  
23 they've been compensated.

24 MR. JAMES: Fair enough, but  
25 those are the circumstances that are being --

1 that are taking place at the site now. The  
2 preventative maintenance on some of the large  
3 components that they don't believe there's a  
4 high salvage value, that preventative  
5 maintenance is not being not maintained. It's  
6 not being continued.

7 CHAIRMAN SETZLER: Well, I think  
8 the point you've made is that there's  
9 abandonment, there's at least maintaining it or  
10 covering it, and then there's mothballing it for  
11 future. And I can't imagine -- the State owns  
12 45 percent of that.

13 MR. JAMES: And -- yeah.

14 CHAIRMAN SETZLER: So if I owned  
15 the 55 percent, I'd certainly be interested in  
16 what the State wanted. I can't imagine not at  
17 least maintaining it or covering it.

18 MR. JAMES: Well, I think that  
19 was the basis of a lot of our questions,  
20 recognizing that the State had an interest in  
21 preserving the site, and so when we observed  
22 that they were actively abandoning --

23 CHAIRMAN SETZLER: Yeah.

24 MR. JAMES: -- we certainly  
25 thought there was a conflict of activity out

1           there, one pursuing one path and the other  
2           pursuing the other.

3                               SENATOR FANNING: Mr. Chair, to  
4           me this is the biggest information I've learned  
5           today, is that we were led to believe in not  
6           just the October 11th meeting but the entire  
7           process, that neither SCANA nor Santee Cooper  
8           would proceed in such a way that would limit our  
9           ability to do something later. In fact, I  
10          remember recent testimonies talked about how  
11          across the nation, people have abandoned things  
12          and they've gone back and done it later, and  
13          that no one was proceeding with this. And those  
14          were the earlier questions I asked with pursuing  
15          it.

16                              Throughout this process, SCANA  
17          has taken actions that have boxed us in to make  
18          sure they get what they want, and by them doing  
19          this, they're limiting any option. We talk  
20          about potential buyers and investors. They're  
21          ensuring that we can't do anything with it  
22          minimum, Senator from Lexington pointed out, our  
23          half of the investment, the State's portion. I  
24          don't know what we can do, but that, to me, is  
25          more of an immediate danger than anything we've

1 discussed in the last three months.

2 MS. EDWARDS: Senator Setzler.

3 CHAIRMAN SETZLER: Yes, ma'am.

4 MS. EDWARDS: If I may. I think  
5 -- again, we were just out there last week. We  
6 have unanswered questions. I think what I'm  
7 learning from this discussion is, as ORS, it's  
8 our job to monitor and report. We need to make  
9 sure we get information ASAP, and we need to  
10 share that information with this body and with  
11 the Commission. That's what we need to do.

12 CHAIRMAN SETZLER: And part of  
13 that information ought to be, what is the cost  
14 of just covering it, not mothballing it, but at  
15 least covering it until the decisions have been  
16 made?

17 CHAIRMAN MASSEY: I mean, I think  
18 what we heard, especially from Santee Cooper,  
19 was that -- from Mr. Carter, when he was sitting  
20 over here in one of these chairs, was -- because  
21 he made the comments about that, you know, you  
22 have had projects that have been shut down for a  
23 while, the mothball-type situation, and they  
24 resumed. They had the one in Tennessee, right,  
25 where they had it shut down for a while and it

1 resumed.

2 And I think Mr. Carter even  
3 suggested that we do the same type thing here  
4 because you don't know what's going to happen in  
5 15 years. But I don't remember hearing any  
6 indication from SCE&G folks that they wanted to  
7 proceed in that manner. I might have just  
8 missed it, but it seems to me like if -- getting  
9 that tax credit is a big deal. It's a little  
10 over \$2 billion, from what I remember.

11 SENATOR FANNING: Yes.

12 CHAIRMAN MASSEY: If I remember  
13 right, right? So if they -- if what they would  
14 prefer is to get a prudency finding from the PSC  
15 that it's abandoned -- that it's prudent to  
16 abandon the project because then, that closes it  
17 for them, right, so then it's easy to get it.  
18 But if they're not going to get that this  
19 calendar year, this tax year, then they've got  
20 to take steps to justify that -- claiming that  
21 credit. Because, I mean, a \$2 billion credit,  
22 even that's going to get the IRS's attention.

23 SENATOR FANNING: Yes.

24 CHAIRMAN MASSEY: Right? So  
25 they're going to have to take some steps, I

1 would think, in order to justify doing that.  
2 But the important thing to remember is that it's  
3 in the best interest of the customers.

4 SENATOR FANNING: Two things.  
5 One is, if they allow parts to become damaged,  
6 it's going to make their case even more how  
7 impossible it is to finish, number one, and  
8 number two, I did specifically ask when we had,  
9 remember, SCANA on this side and Santee Cooper  
10 on the other, and I specifically asked SCANA if  
11 there were any activities that involved current  
12 selling off of parts or in any way that would  
13 impair a job being finished. Their answer was  
14 couched with, we have no plans to finish, but  
15 they said no.

16 So I was specifically told by  
17 SCANA, in addition to Santee Cooper, that they  
18 were not planning to do that. And to see that  
19 they're doing now -- and then the final thing,  
20 and it gets to the Senator from Lexington's  
21 point -- I would argue that we have a State  
22 asset there, at least 45 percent of the \$9.5  
23 billion that are invested there, these cylinders  
24 that the work is two-thirds done and sitting  
25 there, and I don't know how we can wait until we

1 meet again in three weeks and allow a State  
2 asset to be further damaged.

3 CHAIRMAN MASSEY: And Mr.  
4 Chairman, my question on that would be, and this  
5 probably gets into the contractual agreement  
6 between Santee Cooper and SCANA on this issue --  
7 my question would be, what authority does Santee  
8 Cooper have to stop it, right? If they are the  
9 minority, as they kept reminding us, if they're  
10 at the 45 percent spot, I mean, what authority  
11 do they have to tell SCANA, Stop. And I don't  
12 know whether they do have that authority. It  
13 may just be that SCANA can do whatever they  
14 want, and then they've just got to give Santee  
15 Cooper 45 percent of the proceeds. I don't  
16 know, but I think that's something to figure  
17 out.

18 SENATOR FANNING: But what if a  
19 -- outside of that, what if a community was  
20 building a new courthouse and the State, in the  
21 general fund budget, helped build that  
22 courthouse, and then they walked away and  
23 abandoned the courthouse? would the State not  
24 have any legal options regarding just  
25 abandonment in general of a building that it

1           could pursue?

2                           CHAIRMAN SETZLER: Okay. Let me  
3 go back to the Senator from Edgefield's comment  
4 about Santee Cooper may not have an option.  
5 Santee Cooper, in my opinion, has an option to  
6 be proactive instead of just sitting aside like  
7 they've done throughout this process and say,  
8 Oh, by the way, it was Westinghouse's problem  
9 and SCANA messed up. If they think it ought to  
10 be maintained or preserved, then they need to be  
11 proactive in taking steps to make sure that is  
12 made public and they try to get it done.

13                          SENATOR SABB: Mr. Chairman, if I  
14 might --

15                          CHAIRMAN SETZLER: Instead of  
16 just --

17                          SENATOR SABB: I think, to your  
18 point, what I heard primarily throughout all of  
19 our prior testimony was, it's a team.

20                          CHAIRMAN SETZLER: Right.

21                          SENATOR SABB: I mean, everything  
22 has been a team, right? So I think the Senator  
23 makes the point that something needs to be --  
24 needs to happen and needs to happen quickly in  
25 order that we might not box ourselves in and

1 have the idea of a future startup as an option  
2 to the extent that that exists as we speak. And  
3 it doesn't appear as if we've got three weeks.

4 what I would urge us to consider  
5 is having our two co-chairs to take the lead and  
6 enter into discussions beyond where we are and  
7 see can't we get them to talk cost and see  
8 whether or not it makes sense for them to come  
9 together and preserve the assets as it stands.  
10 From what I'm hearing, it's imminent that we do  
11 something and do something quickly. So I would  
12 urge us to have a discussion on whether or not  
13 we shouldn't empower our two co-chairs to engage  
14 in that discussion, see can we do something to  
15 preserve the asset.

16 SENATOR FANNING: So moved.

17 CHAIRMAN SETZLER: Senator from  
18 Oconee.

19 SENATOR ALEXANDER: And Mr.  
20 Chairman, I want to just weigh in on this as  
21 well, that I think it's vital for all of us to  
22 make sure that those assets are protected  
23 because the more damage, if damage is done to  
24 them, then that, as has been stated, impacts the  
25 cost of being able to get it going in the

1 future.

2 And I thought we'd been pretty  
3 clear in the past, from our discussions and  
4 debate, that we were interested in protecting  
5 these assets to the best of the ability of  
6 seeking some opportunity in the future from that  
7 standpoint. And again, I think even this  
8 morning, to one of my questions, that the cost  
9 that would be affiliated with that, in the whole  
10 scheme of things, is not a tremendous amount of  
11 cost from that standpoint to protect that asset.

12 MS. EDWARDS: Not when we're  
13 talking about 445 million annually in revised  
14 rates, no. I think there was some questioning  
15 by this committee in prior hearings regarding  
16 rough cost estimates on preservation activities.  
17 Certainly, as ORS, we have the obligation to  
18 monitor, and we have the obligation to find and  
19 gather and bring that information to you, the  
20 General Assembly, as well as to the Commission  
21 as to the activities or non-activities that are  
22 going on out at the site. And I think that now  
23 that we have this information, it is incumbent  
24 upon us as ORS to act and move forward and  
25 proceed accordingly.

1                   CHAIRMAN SETZLER: Well, and I  
2 heard your words used very carefully, but I'm  
3 going to go back and ask you again. Does ORS  
4 have the option to file something to require  
5 them to at least cover this facility?

6                   MS. EDWARDS: I'm going to take  
7 that back, Senator Setzler. I've been thinking  
8 about it since you first asked me. I think  
9 Anthony, Director James, hinted at this. I  
10 think when we -- we have a pending rate request  
11 for rate relief. You know, the first thing  
12 SCANA's going to point to is, well, you know,  
13 the that's going to cost X-millions or X amount  
14 of dollars to do that preservation work. So if  
15 we move forward with that request, I'm sure that  
16 we're going to get that type of response.  
17 Senator Setzler --

18                   CHAIRMAN SETZLER: Well, let me  
19 phrase the question a different way then. At  
20 some point in the future, y'all and PSC are  
21 going to have to deal with the issue of  
22 prudence.

23                   MS. EDWARDS: Right.

24                   CHAIRMAN SETZLER: Would it not  
25 be a factor in the determination of prudence

1           whether you refused or not to --

2                       MS. EDWARDS: Yes, sir.

3                       CHAIRMAN SETZLER: -- preserve  
4           the facility that the taxpayers' money had gone  
5           into?

6                       MS. EDWARDS: Yes, sir. As part  
7           of that same statute --

8                       CHAIRMAN SETZLER: As a part of  
9           your abandonment.

10                      MS. EDWARDS: Yes, sir. There's  
11           a requirement about minimizing cost, but, you  
12           know, it's minimizing -- certainly SCE&G and  
13           ORS, this request to preserve, you want to  
14           minimize but do so in such a way that you have  
15           the opportunity to preserve the opportunity to,  
16           if it presented itself, to restart the project  
17           at a later date. And I think that's been clear.

18                      CHAIRMAN SETZLER: Anything  
19           further for Ms. Edwards? Let me say to you, Ms.  
20           Edwards, you have done an incredible job.

21                      MS. EDWARDS: Thank you.

22                      CHAIRMAN SETZLER: Very relaxed  
23           and been very knowledgeable and answered our  
24           questions straight up, and we appreciate very  
25           much what you have done. We might not have

1       liked all the answers, but you've been very  
2       straightforward and been honest with us, and  
3       that's all we can ask you to do. And we really  
4       appreciate that.

5                   MS. EDWARDS: Thank you, sir.

6                   CHAIRMAN SETZLER: Okay.

7                   CHAIRMAN MASSEY: Thank you.

8                   CHAIRMAN SETZLER: All right,  
9       ladies and gentlemen of the committee, I think  
10      we're at the point that we now begin to deal  
11      with where we go in the future and what we  
12      recommend to the South Carolina Senate and the  
13      State of South Carolina, and so I would ask the  
14      members of the committee, before we meet the  
15      next time, to submit to staff any of your  
16      recommendations that we look at as a committee.

17                   To move forward, I've heard  
18      clearly today, for example, that ORS could serve  
19      in a consumer advocate role as long as the  
20      statutory definition was changed; that the PSC  
21      could assume that if it was -- the statutory  
22      definition was changed. We heard about the  
23      issue of the rate of return. We clearly got the  
24      Base Load Review Act and what we do with it or  
25      not do with it and how we deal with it.

1                   You have the whole issue of  
2                   Santee Cooper, from whether Santee Cooper is  
3                   sold; if it is sold, what is the value of Santee  
4                   Cooper and how do you determine that value? If  
5                   it is not sold, what is the major reorganization  
6                   of Santee Cooper? As we go forward, whether or  
7                   not Santee Cooper ought to be under the PSC, I  
8                   think, was another issue that we talked about,  
9                   and it's been mentioned several times what the  
10                  role, continued role or non-role of PURC is.  
11                  So, I mean, just off the top of my head, I think  
12                  that's some of the things that we've seen. You  
13                  agree with that, Mr. Co-Chair?

14                   CHAIRMAN MASSEY: I do agree with  
15                   that. I would add, and this is something --

16                   CHAIRMAN SETZLER: And  
17                   maintenance of the site -- excuse me -- until --  
18                   that's clearly a major issue. Go ahead.

19                   CHAIRMAN MASSEY: Yeah,  
20                   obviously. I think we ought to consider as  
21                   well, and just to throw this out there, and  
22                   Senator Alexander, I haven't mentioned this to  
23                   you yet, but I think we ought to consider  
24                   reopening filing for the PSC vacancies that are  
25                   out there now because the filing closed right at

1 the time of the abandonment announcement, and I  
2 think if you -- if the public had been given the  
3 opportunity after that announcement that you may  
4 have had more candidates.

5 I know we've suspended the  
6 screening process on a temporary basis so that  
7 we could figure out more about what was going on  
8 here. I think we ought to consider reopening  
9 and allowing other people to file, considering  
10 all the information that's come out. And that  
11 would take, I think, an affirmative act on our  
12 part. But I think there are three or four PSC  
13 commissioners who are up in the spring; is that  
14 right?

15 SENATOR ALEXANDER: Three of them  
16 up in the spring, and to your point, that was  
17 the reason that we felt it was best to suspend  
18 any further action until we got further in to  
19 understand all the circumstances. And at the  
20 same time, in years past, we would not have even  
21 been to the point that we were in the process,  
22 but because of the shortening of the session, we  
23 certainly wanted to be proactive in going ahead  
24 and starting that process.

25 So I think that we can have time

1 for the General Assembly to speak if that's -- I  
2 think we take that affirmative action, and we  
3 could probably do resolution to that effect from  
4 that standpoint.

5 CHAIRMAN SETZLER: And I think we  
6 need to continue to do what we've done and move  
7 in a reasonable and responsible and respectful  
8 way to try to deal with the situation that the  
9 State finds itself in and try to do what is in  
10 the best interest of the State of South Carolina  
11 and the citizens of this state and the  
12 ratepayers of this state. Anything further? We  
13 stand adjourned. Thank you.

14 01:24:51

15 (END OF VIDEO PART 2)

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CERTIFICATE OF TRANSCRIPTIONIST

I, Susan K. von Keller, do hereby certify:

That the foregoing video file entitled  
“South Carolina Senate, V. C. Summer Nuclear  
Project Review Committee, October 25, 2017” was  
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the prevailing circumstances.

I further certify that I am neither related  
to nor counsel for any party to the cause  
pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my  
official seal this 16th day of November, 2017,  
at Columbia, Richland County, South Carolina.

---

Susan K. von Keller

Notary Public

State of South Carolina at Large

My Commission expires:

March 8, 2026