

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TRANSCRIBED VIDEO FILE

V. C. Summer Nuclear Project Review Committee
November 21, 2017

COMPUSCRIPTS, INC.
CLIENT FOCUSED. DEADLINE DRIVEN.

803.988.0086
888.988.0086

00:00:01

1
2 CHAIRMAN SETZLER: Good morning,
3 and welcome to this meeting of the V. C. Summer
4 Nuclear Project Review Committee. We have great
5 attendance this morning, which we appreciate, on
6 behalf of Senator Massey and myself as cochairs.
7 We also have present with us the President Pro
8 Tem of the Senate, who appointed this committee,
9 and the Senator from Greenville, Senator
10 Timmons, I believe is here, who is not a
11 committee member but has monitored these, and we
12 welcome you, Senator, and appreciate you being
13 here.

14 Senator Massey and I, as the
15 cochairs, feel that the committee has proceeded
16 in a reasonable and responsible manner in trying
17 to look into what has transpired and that now we
18 need, unless something else comes up, that we
19 need to shift our focus from exploring what
20 happened to what do we propose to the South
21 Carolina Senate and the people of South Carolina
22 relative to what has occurred, whether that be
23 through legislation or a recommendation to the
24 President Pro Tem or the Chairman of Finance or
25 Chairman of Judiciary.

1 I believe it's the consensus that
2 most legislation, if we introduce or propose
3 introducing legislation, would go to the Senate
4 Judiciary Committee by title. There may be
5 exception to that, but I think most of it would
6 go to Senate Judiciary. So I'm going to open it
7 up and call on the cochair, Senator Massey.

8 CHAIRMAN MASSEY: Thank you,
9 Senator Setzler. I agree with the comments, and
10 first of all, I think we ought to -- I want to
11 thank the other committee members because I
12 think everybody has really participated and done
13 a good job in trying to get to what happened,
14 and so I appreciate that.

15 And as you know, just after our
16 last meeting, we asked senators to send -- if
17 they had ideas, to send recommendations to staff
18 so we could try to put some of that stuff
19 together so we'd have a little bit of a game
20 plan today. And several members have submitted
21 ideas, and the staff has put together kind of a
22 general outline, and we want to talk about those
23 things and maybe some other ideas, as well, to
24 see if there's some legislative ideas that this
25 committee as a whole can get behind. I think,

1 you know, there are going to be legislation
2 regardless, but it would be good if we've been
3 working on these things, if there are some
4 things that we could support as a group, I think
5 that would probably carry some weight going
6 forward.

7 So with that, Mr. Chairman, one
8 of the things that I think probably had maybe
9 even the most consensus about when we talked
10 about ideas at our last meeting, and overall
11 some of the things that have come out, is the
12 idea of creating a consumer advocate. And I'm
13 interested in the committee's take on that, but
14 that did seem to be like one that there was
15 maybe even unanimous support that we ought to
16 move in that direction. I guess there may be
17 some conversation about where that ought to be
18 housed. My suggestion would be to house it at
19 ORS, but I'm interested, Mr. Chairman, in what
20 other committee members feel about the need for
21 having a consumer advocate and where it should
22 be housed, and I guess ORS's role/mission may
23 come into play with that as well, but.

24 CHAIRMAN SETZLER: Yeah, I think
25 really what you're talking about is the creation

1 of some type of consumer advocate position,
2 whether it be at ORS or somewhere else, and
3 changing the role, somewhat, of the ORS as was
4 recommended by ORS, if I recall. And so I -- my
5 personal opinion is I agree that we need to
6 create the consumer advocate, and I likewise
7 would support putting it at ORS, but that's just
8 my personal opinion. Comments of the committee
9 members? Senator.

10 SENATOR BENNETT: Thank you, Mr.
11 Chairman. I guess my question would be, you
12 know, as we heard from ORS, ORS should be doing
13 much of this consumer advocacy, in my opinion,
14 and by adding another layer of consumer advocacy
15 -- I'm not opposed to this. I'm just kind of
16 throwing out some ideas that, you know, we keep
17 building and building and building upon.

18 would it be better to take the
19 approach of looking at ORS's tasks and maybe
20 removing some of those economic development-
21 focused efforts and put those -- you know, if we
22 need to have a consumer advocate and an advocate
23 for the state from an economic development
24 standpoint, it seemed to me that was where a lot
25 of the conflicts or perceived conflicts were.

1 And let Commerce argue that, and instead of
2 having ORS try to play both roles, let ORS be
3 the consumer advocate and let Commerce argue the
4 points of economic development effects on any
5 changes.

6 CHAIRMAN SETZLER: So, in
7 essence, what you're saying is let ORS assume
8 the role of a consumer advocate versus what
9 they're currently doing or in addition to,
10 through modification, if that's what I'm
11 understanding.

12 SENATOR BENNETT: Yes, and I
13 don't necessarily know that that's a
14 recommendation, but something maybe we should
15 consider --

16 CHAIRMAN SETZLER: Right.

17 SENATOR BENNETT: -- as opposed
18 to just adding an additional layer of
19 government.

20 CHAIRMAN SETZLER: Right.

21 CHAIRMAN MASSEY: And I think, in
22 response to that, that that's probably what's --
23 I think that would have to happen if you put it
24 at ORS, right, because you're going to have to
25 amend their mandate to focus on economic

1 development or to focus on the viability of the
2 utility. Let the utilities defend themselves,
3 allow ORS to be that advocate on the consumer
4 side, and give the PSC the obligation to
5 consider economic development and those things
6 in that effort. I mean, I don't have a problem
7 necessarily if Commerce or whomever else wants
8 to make an argument about economic development,
9 but I do think there's going to have to be
10 somebody who's sole mission is to advocate for
11 consumers because that's what's been missing.

12 CHAIRMAN SETZLER: Okay. Senator
13 from Orangeburg.

14 SENATOR HUTTO: I agree with the
15 Senator from Dorchester about the fact that
16 ORS's mission is bigger and maybe too big right
17 now, and it does create a conflict. But, to me,
18 we've already got an agency whose mission is
19 consumer, and that's the Department of Consumer
20 Affairs. I would think we'd just give -- we're
21 not creating a new layer of government. It's
22 already there. They have multiple missions.
23 You just give them this one more mission, that
24 they are the advocate at the PSC, and then you
25 don't have to move anything from ORS.

1 But the one idea I would advocate
2 against is what I understood the House might be
3 wanting to do, was put it at the Attorney
4 General's Office. I don't think that's a good
5 idea. But so whether we put it at ORS and then
6 remove some other conflicting issues from ORS,
7 would be one approach, or if we're going to
8 leave ORS somewhat like it is and just move
9 Consumer Affairs -- or a consumer advocate to
10 Consumer Affairs, we're not creating any new
11 layer of government because we already have a
12 Department of Consumer Affairs.

13 But I do think you've got to
14 separate -- ORS has got too much to do in the
15 current setup, and so we've got to remove some
16 of their obligations one way or the other. And
17 I understand your concern about creating yet one
18 more layer, but we -- as you advocate, we
19 already have a Department of Commerce, and I
20 would advocate we already have a Department of
21 Consumer Affairs. We just need to move some of
22 the obligations to existing agencies, and you
23 could do it either way, or you might even do it
24 both ways and still have ORS there with their
25 obligation to mediate and do the other things

1 that ORS does.

2 CHAIRMAN SETZLER: Okay. Senator
3 from Richland.

4 Senator Scott: You know, outside
5 of having some other outside review of the
6 public entity backing, looking at ongoing
7 process -- I first want to start with beginning
8 at the Base Load Review Act, an amendment to the
9 Base Load Review Act to add a provision in it
10 that there is a review back to the legislature,
11 either through any new companies that may be
12 coming on board or any new changes.

13 But I'm also concerned about the
14 review of any final agreement that we may end up
15 with because it will be a time-consuming
16 recommendation, repayment term, and that kind of
17 deal, and my concern is whether or not it's a
18 better fit to come back to the General Assembly
19 through a joint committee as we move year by
20 year in trying to satisfy whatever these terms
21 are going to be, unless -- and I'm pretty sure
22 we're going to end up with something that has
23 some kind of term and some kind of relief.

24 There's already some
25 recommendations that's out there from the

1 company, and I was hoping today that we would be
2 able to incorporate some of whatever the final
3 recommendation is because I think they're at a
4 beginning point in talking about some things
5 they want to do, but the question is, in those
6 recommendations, once you get a final decision
7 on the recommendation, who is going to actually
8 review it to make sure the terms and conditions,
9 they stay on track and there is some kind of
10 reporting back into the legislature?

11 CHAIRMAN MASSEY: Senator --

12 SENATOR SCOTT: Can I go back?

13 CHAIRMAN MASSEY: Can I just --

14 SENATOR SCOTT: Yes, please.

15 CHAIRMAN MASSEY: I'll say this,
16 that we have -- on our proposed agenda that we
17 want to hit the bullet points, one of them is
18 the Base Load Review Act --

19 SENATOR SCOTT: Okay.

20 CHAIRMAN MASSEY: -- and whether
21 we need to repeal it, amend it (BREAK IN AUDIO).
22 Another point that we're going to talk about is
23 what you were just talking about, is, as it
24 pertains to SCANA specifically, the proposal
25 that they've made and whatever this committee --

1 SENATOR SCOTT: well --

2 CHAIRMAN MASSEY: -- wants to
3 talk about as far as the rates and the terms.

4 SENATOR SCOTT: well -- thank you
5 so much, Mr. Chairman. But unless you, in this
6 joint committee -- because I don't want the
7 legislature to not fulfill its responsibility.
8 Under this joint committee, if you want to add
9 some additional public folk to be involved with
10 it, but there's got to be some oversight that
11 comes back to this legislature because what I'm
12 seeing now, especially from the House side, is
13 the concern about all these things that's
14 happened, but there is nothing I've seen yet
15 that indicated that the General Assembly itself,
16 when it did the Base Load Review Act, created an
17 entity -- or created the opportunity for those
18 companies, as well as Santee Cooper, to come
19 back and provide us with some information in
20 this ongoing process.

21 Yes, they went to the Public
22 Service Commission, but even with that, Public
23 Service Commission, Regulatory, other public
24 service commission and these companies should
25 have been able to come back and have kept us

1 abreast of what was going on and not at the last
2 minute we find out, and when this thing comes to
3 (BREAK IN AUDIO), it is almost a no return.

4 And so that's what I'm kind of
5 looking at, not just one specific agency, but if
6 you've got a combination of legislators, both of
7 the House and the Senate, to satisfy it and
8 settle this down, with some public folk involved
9 in it, to hear this thing annually until we get
10 a final conclusion, that's kind of where I would
11 like to go with it.

12 CHAIRMAN SETZLER: Okay. Senator
13 from Oconee.

14 SENATOR ALEXANDER: Thank you.
15 Getting back -- and thank you, Mr. Chairman and
16 Cochair -- on to the discussion about the
17 Consumer Affair, I agree. I think you could
18 either do either way, and I'm fine with leaving
19 it at ORS if we pull that other provision that
20 we had talked about, I think, at the last
21 meeting about the preservation of the financial
22 integrity of the utilities and make that
23 something that they would stand on their own to
24 have to deal with from that standpoint. So I
25 think that kind of builds on what the Senator --

1 Senator Bennett was talking about from that
2 standpoint, and not only the economic
3 development aspect, but this aspect so that the
4 ORS would have that consumer advocate role from
5 that standpoint.

6 CHAIRMAN SETZLER: Okay. Senator
7 from Lancaster, do -- okay. Other comments? Do
8 we have a proposal? I've heard a proposal to
9 put it at the Consumer Affairs, and I've heard a
10 proposal to put it at ORS.

11 CHAIRMAN MASSEY: Mr. Chairman, I
12 think what'll happen -- and you touched on this
13 in the beginning -- is that, most likely, any
14 type of legislation on this is going to be
15 routed through Judiciary. And if there's a
16 subcommittee appointed on it -- I don't want to
17 assume anything yet, but, I mean, if there's a
18 subcommittee appointed, then I would anticipate
19 they're going to take testimony and consider
20 those very same things about maybe the better
21 place to house it. But I'm curious, I don't
22 hear any opposition to having a consumer
23 advocate. Is that right? So I guess we could
24 just decide where we want to house it for the
25 proposed legislation, and then we could let the

1 Judiciary kind of work on that and try to
2 perfect it some.

3 CHAIRMAN SETZLER: Senator from
4 Lancaster.

5 SENATOR GREGORY: (INDISTINCT)

6 CHAIRMAN SETZLER: I thought I
7 saw a question or a comment in your face.

8 SENATOR GREGORY: I was just
9 wondering, the subject of -- has the subject of
10 funding been discussed at all, of how many
11 positions will be needed, whether -- who would
12 -- ORS or, otherwise, Consumer Affairs?

13 CHAIRMAN MASSEY: So the next
14 thing -- I'll tell you, the next thing that I
15 had on my list on ORS was dealing with the
16 executive director and then the enforcement
17 mechanisms, and I think funding is going to come
18 up with part of that. That's probably something
19 that's going to have to be considered as well.

20 SENATOR GREGORY: As far as
21 Consumer Affairs, you know, the budget's pretty
22 small as it is now, so.

23 CHAIRMAN SETZLER: Okay.

24 CHAIRMAN MASSEY: Well, Mr.
25 Chairman, I mean, I would move that we -- that

1 the committee support legislation to create a
2 consumer advocate within ORS and make changes to
3 their mission accordingly, with the
4 understanding that -- I mean, I'm open to
5 hearing testimony if there's a better way to do
6 it, but I think we do need a vehicle, a
7 legislative vehicle that we can have, and the
8 Judiciary can -- whoever the Chairman wants on
9 that subcommittee could take the testimony and
10 try to perfect it somewhat.

11 CHAIRMAN SETZLER: Okay, I have a
12 motion and a second. Any other discussion?
13 Hearing none, now all those in favor, say aye.

14 (COMMITTEE MEMBERS AFFIRM)

15 CHAIRMAN SETZLER: All opposed,
16 no, and the ayes have it. Okay.

17 CHAIRMAN MASSEY: Mr. Chairman,
18 the next thing, based on some suggestions, was
19 to consider whether we want to address the
20 selection process for the executive director and
21 also the enforcement tools that ORS may need to
22 do this new task. And I don't know if that's
23 something that we want to -- that people have
24 thoughts on, but that was something that came up
25 as well.

1 CHAIRMAN SETZLER: Well, first of
2 all, did you address the requirements that ORS
3 not ensure the financial integrity, that the
4 utilities be moved out?

5 UNIDENTIFIED SPEAKER: He
6 mentioned that, I think, when he said
7 (INDISTINCT).

8 CHAIRMAN SETZLER: Yeah.

9 CHAIRMAN MASSEY: Right.

10 CHAIRMAN SETZLER: Okay.

11 CHAIRMAN MASSEY: Yeah, that
12 would be my intention, is that, if you make them
13 the consumer advocate, then you adjust their
14 (INDISTINCT) --

15 CHAIRMAN SETZLER: Any objection
16 to that? Okay. All right. So what you're
17 really talking about is updating the
18 qualifications of the executive director of ORS.

19 CHAIRMAN MASSEY: Yeah, I mean,
20 that was one of the suggestions that came in. I
21 mean, now, this may get into a conversation we
22 have on our list later on. As you know, Mr.
23 Chairman, PURC -- and so maybe that's something
24 that we could hold off until that point.

25 CHAIRMAN SETZLER: Okay.

1 CHAIRMAN MASSEY: But we also had
2 it under the ORS stuff because it's part of that
3 process. But I do think -- the Senator from
4 Lancaster made a good point, and that is, if
5 we're going to -- and this probably needs to be
6 considered at the subcommittee level, but, I
7 mean, if we're going to give ORS a new function,
8 we need to make sure that they've got the tools
9 necessary in order to complete that function and
10 do it.

11 CHAIRMAN SETZLER: And I agree
12 with that. And I don't think that's only
13 personnel, but the legislative language to allow
14 them the tools that they need.

15 CHAIRMAN MASSEY: Right.

16 CHAIRMAN SETZLER: Anybody got a
17 problem with that? Okay. Next.

18 CHAIRMAN MASSEY: Mr. Chairman,
19 those were all the bullets that we had under
20 ORS. I don't know if any other committee
21 members had any other suggestions on ORS at this
22 point.

23 CHAIRMAN SETZLER: Okay.

24 CHAIRMAN MASSEY: All right, not
25 seeing any, Mr. Chairman, the next thing we had

1 on our bullet list of things that some members
2 have made suggestions about was the Public
3 Service Commission, and there are several things
4 here under this part.

5 One of those was dealing with the
6 commissioners themselves and whether we need to
7 increase qualifications for commissioners,
8 whether -- there is a proposal to change the
9 number of commissioners from seven to five and
10 have an increase in salary as a result of that,
11 what we need to do as far as screening, and
12 another idea -- and I'll take the credit or the
13 blame for this one, but right now we have --
14 correct me if I'm wrong, Senator Alexander, but
15 I believe we have three commission seats that
16 are up for election in the spring.

17 The filing period for those seats
18 closed right around the time of the abandonment
19 announcement. I actually think, Mr. Chairman,
20 we ought to reopen filing on all three of those
21 seats to allow more people to participate based
22 on things that have changed significantly in the
23 last four months, and I would hope that we could
24 still have a spring election if we did that.
25 But I think we ought to reopen those, and I'm

1 open to more stringent qualifications and all
2 that, as well, but I'm interested in what the
3 other committee members have to say about that.

4 CHAIRMAN SETZLER: All right,
5 before we go down that road, how about one
6 member of the staff tell the full committee
7 exactly what the current makeup and selection
8 process is of the commissioners and the process
9 so we're all talking from the same sheet of
10 music and understanding.

11 MS. ANDERSON: Currently, the PSC
12 commissioners, there is one elected from each
13 congressional district. They have staggering
14 terms. Seats Two, Four, and Six are open, and
15 their terms end on June 30th of 2018. And those
16 are the seats that are currently under the
17 screening process.

18 To be a PSC commissioner, there
19 are some prerequisites. You have to have a
20 baccalaureate degree, and you also have to have
21 expertise or a background of substantial
22 duration in a number of categories, and that
23 includes energy issues, telecommunications,
24 consumer protection and advocacy, water and
25 wastewater, finance, economics, statistics,

1 accounting, engineering, or law. Now, there is
2 a provision where the Public Utilities Review
3 Committee, which you hear referred to often as
4 PURC, they can waive the expertise part if the
5 committee takes a three-fourths vote and makes
6 written findings. To my knowledge, PURC's never
7 used that, but that is currently in the statute.
8 And I'm not sure how far you want me to go in
9 depth with this.

10 CHAIRMAN MASSEY: And I -- and we
11 all may know this, but I think this is implied
12 in what you just said, but the PURC does the
13 screening for those candidates when they apply,
14 right?

15 MS. ANDERSON: That's correct.
16 There is a subcommittee that holds public
17 hearings, and then the full committee does the
18 review. PURC can nominate up to three
19 candidates per seat, and then those candidates
20 are elected by the General Assembly.

21 CHAIRMAN MASSEY: And do those
22 people -- if someone desires to be on the Public
23 Service Commission, they just apply when the
24 vacancy is there? Is that how it works?

25 MS. ANDERSON: Correct. There is

1 -- by law, we have to have a notice out for at
2 least a month in local newspapers. This year,
3 we also did general press releases. In addition
4 to the newspapers, notices were sent to members
5 of the General Assembly. And then after that
6 time period, then we can start taking
7 applications.

8 CHAIRMAN SETZLER: And they also
9 have to take a test, don't they?

10 MS. ANDERSON: That's right.
11 There is a written exam they have to take.

12 CHAIRMAN SETZLER: Okay. All
13 right. Senator from Richland.

14 SENATOR SCOTT: Mr. Chairman, I
15 really have not seen where qualification as
16 related to being on the commission was a
17 problem. I think what we have not talked about
18 that created the problem, we passed the Base
19 Load Review Act in 2007. By March of 2008, the
20 process had already begun with this private-
21 public partnership. And so we end up with an
22 agency that was really chasing legislation,
23 because we didn't give them adequate time to
24 really do staffing, a long review, as well as
25 trying to really figure out what this document

1 that we had passed by -- in general, on its
2 surface, on its face, they had time to look at
3 it. But to really get into the weeds of it --
4 and this is a document basically written by the
5 private sector.

6 So in all the testimonies that
7 I've heard here -- unless somebody heard
8 something different from me -- I have not heard
9 testimony that convinced me that the problem
10 lies within those commissioners, who, in fact,
11 based upon qualification -- because what I've
12 saw, some of them (INDISTINCT) had tremendous
13 tools to get the job done. The problem is how,
14 for the first time, this Base Load Review Act,
15 how we actually received the information -- or
16 the PSC commission received it and whether or
17 not the General Assembly itself had the
18 opportunity to even get any updates.

19 And I'm more concerned about us
20 getting the updates and being able to ask
21 questions not when something goes wrong, but
22 also during this long process, because anybody
23 else who comes after them who decides to build
24 reactors or something similar, it is not going
25 to be an overnight process. It's going to be a

1 long term -- five, six, seven, eight years -- to
2 actually build that.

3 And outside of what the
4 commissioners have heard, I'm also interested in
5 some things that we may pick up in the General
6 Assembly when they come back to us. But I just
7 don't think qualifications are an issue. Now,
8 if you wanted to expand the Commission and add
9 some more commissioners or pay them some more
10 money, that's fine with me. But the different
11 folk who come out, the different backgrounds you
12 have -- you know, some of them may apply. But
13 some -- because you have had the testing
14 component, you've got to pass the test, and they
15 gave some very specific qualifications, I don't
16 foresee it. It is almost like, in the legal
17 community, y'all pass the bar. There's no
18 guarantee who's going to be a great attorney and
19 who's going to be just an attorney. It just
20 depends who --

21 UNIDENTIFIED SPEAKER: Can you be
22 more specific?

23 SENATOR SCOTT: I'm trying to be
24 nice, but you know these investors, they're
25 pretty tough. And so I really don't see a

1 problem with that. If it's anything, if you
2 want some consulting firm to take a look at the
3 document we use for qualification -- because the
4 document itself or the test should weed out
5 those who are not qualified to be on that
6 commission.

7 CHAIRMAN SETZLER: What about
8 some of you that's been involved in this
9 process? Do you feel the qualifications are
10 sufficient, need to be modified in any way,
11 changed?

12 SENATOR RANKIN: Well, Mr.
13 Chairman, I have -- along with Senator Hutto, we
14 have gone through how many screenings in our
15 tenure? Since the inception, I guess.

16 SENATOR HUTTO: Yeah.

17 SENATOR RANKIN: And I don't
18 think, as the Senator from Richland says, it's
19 not a question of rigor of the qualifications.
20 It may be, again, looking back at the decisions
21 made -- and particularly one that has, for the
22 first time in the history of this department,
23 raised the hackles and the hue and cry of change
24 and demanding that we do something: scrap the
25 whole, fix, replace, et cetera. And so,

1 statutorily, these are pretty hefty requirements
2 to have. The testing of these candidates,
3 again, I think both objectively and you could
4 argue subjectively based on their interviews,
5 pretty rigorous.

6 we have -- we have not -- and,
7 again, I don't want to speak for Senator Hutto,
8 but he chairs that subcommittee. Y'all correct
9 me if I'm wrong. We have had examples where
10 folks that offered did not pass the test; again,
11 the written and/or the interview.

12 So I will kind of tend to agree
13 with Senator Scott on this. I don't think it's
14 a lack of defined prerequisites, requirements,
15 and a process that we have that has brought us
16 to this point at all. And so everything's
17 subject to being improved. By the same token,
18 remember the New Coke didn't last. The old Coke
19 is what was not just popular, but was the better
20 brand. So let's just be careful as we go
21 forward on this, but to answer your question,
22 again, there's a lot of good stuff that we've
23 done.

24 CHAIRMAN MASSEY: Okay. If I can
25 just --

1 CHAIRMAN SETZLER: Okay, go
2 ahead.

3 CHAIRMAN MASSEY: -- just kind of
4 follow up on that just for a second because I'm
5 interested in what Senator Hutto and Senator
6 Alexander have to say, as well, about that
7 because they've been dealing with the
8 qualifications and the screening much more than
9 I have, obviously. But I'm interested, if y'all
10 feel that the current qualifications that we
11 have give us candidates who have the expertise
12 in order to make the decisions that they're
13 faced with on the -- I mean, do these folks have
14 the expertise to make a decision about whether
15 it was prudent to do certain things? And if
16 y'all say yes, then I'm -- I mean, this is an
17 idea that somebody brought up, so we wanted to
18 bring it up, but if...

19 SENATOR HUTTO: I would say that,
20 after they've gone through screening and taken
21 the test, I believe that they've got the
22 qualifications to do it. However, if you want
23 to know how to improve it, I'm not sure we'll
24 get the quality of applicants to give us a wide
25 array of choice -- I mean, by the time we've

1 gone through screening, as you know -- and
2 sometimes we've only had one candidate hit it.

3 Now, PSCs across the country only
4 have three or five. We have seven, and we do
5 that for geographic diversity, but I don't know
6 that geographic diversity trumps competence.
7 So, I mean, if you really wanted to spend the
8 same amount of money on it, you'd double the
9 salary and only have three of them. And you
10 wouldn't -- you know, that way, you potentially
11 would attract more people who are interested in
12 applying because you're going to be paying them
13 \$200,000 rather than \$100,000.

14 And, obviously, \$100,000 is a
15 good salary to a lot of people, so I don't want
16 to suggest that. But if you're looking for the
17 quality of a person with the right experience
18 who's either got utility background, a legal
19 background, accounting background, a lot of
20 those folks are going to make more than that in
21 the private sector.

22 So that's one option of looking
23 at how you might restructure the PSC, is just
24 have fewer commissioners. But, you know, we
25 already have the requirements of the background

1 you've got to have. We interview them on that.
2 we have public hearings on that. And then we
3 test them for subject matter knowledge based on
4 the statutes that we have, and those tests --
5 and many will tell you -- because the pass
6 rate's not extremely high.

7 SENATOR ALEXANDER: That's true.

8 SENATOR HUTTO: So I think the
9 test is rigorous enough. I think the
10 qualifications are rigorous enough. I wish we
11 had 30 applicants to look at. We don't.

12 CHAIRMAN SETZLER: So how do we
13 do that?

14 SENATOR HUTTO: Well, I mean,
15 obviously, like anything else, you pay more.
16 And I don't think you -- I don't think it's a
17 question of upping the requirements. Maybe it's
18 a question of advertising more. Maybe we aren't
19 getting the knowledge of the app -- I mean, we
20 post it like we post other things, but many
21 people who might be interested and might be
22 qualified, it just never dawned on them that
23 they would want to switch careers and be a PSC
24 candidate. And the other thing is, there's not
25 a guaranteed job stability there. I mean,

1 you've got to stand for election every --

2 SENATOR ALEXANDER: Four years.

3 SENATOR HUTTO: -- four years.

4 And so, again, if you think about what the
5 people with the qualifications that I think we
6 think they all need, a lot of people are making
7 more than that in the private sector than they
8 would becoming a PSC commissioner.

9 CHAIRMAN MASSEY: One of the
10 suggestions we had was to go from seven to five
11 and increase the salaries to do that. Of
12 course, if you do that, then you're going to
13 have to figure out how you're going to do the --
14 the selection process is going to have to
15 (INDISTINCT).

16 SENATOR HUTTO: And I want to
17 comment on that too. You know, we don't have
18 geographic regions for the Supreme Court, and it
19 sort of balances out. I mean, not exactly, but
20 that is something we all weigh when we vote. If
21 we ended up with five from Greenville, I think
22 people would say, we're not having any more from
23 Greenville till we get some more diversity on
24 here. I do agree that seven gives you a
25 guaranteed diversity geographically, but that's

1 all. Okay? It doesn't guarantee you gender
2 diversity. It doesn't guarantee you racial
3 diversity. It doesn't guarantee you competence
4 or the best level.

5 If you want the best five people,
6 let's elect the best five people, without regard
7 to where they come from, but we'll all weigh in
8 those factors that we always do, that we should
9 promote diversity of all types in the selection
10 process. But I don't think that we need to
11 mandate that you need whatever, a Ph.D. or a
12 master's degree or --

13 CHAIRMAN SETZLER: Okay.

14 SENATOR HUTTO: I think people
15 are qualified enough. I just wish we had more
16 applicants.

17 CHAIRMAN SETZLER: Senator from
18 Oconee.

19 SENATOR ALEXANDER: Thank you,
20 and I would agree with a lot of the comments
21 that have been said by my two colleagues that
22 are on the committee. I think that the pay is
23 certainly an area that needs to be addressed,
24 and at a minimum, it ought to be equal to what a
25 circuit court judge makes because it's really a

1 semijudicial position. I think the five would
2 go fine versus the seven.

3 And as much as anything, as we've
4 thought about the seven being from each
5 congressional district, you know, while you have
6 some diversity from that standpoint, it really
7 has been more for the ease of the candidates to
8 know which seat they're running for more so than
9 the geographic aspect, that they're running for
10 that specific seat from their congressional
11 district versus running, as the analogy was for
12 the Supreme Court, is at large. There's no --
13 so they're running statewide for those
14 positions.

15 I think that, again, too, making
16 sure that you've got the right individuals,
17 anything that we can do to improve the
18 advertising and getting it out there -- we've
19 made tremendous efforts again this year to go
20 beyond what had been done from that standpoint.
21 And as far as the criteria and the components
22 from that standpoint, you've got to remember,
23 prior to 2004, I guess there weren't any
24 qualifications for the job. So I think that
25 we've come a long way. There was no test.

1 There was nothing from that standpoint. So I
2 think we can build upon those success, but I
3 certainly could support five members versus the
4 seven from that standpoint. But I do think that
5 salary has got to be a part of that.

6 CHAIRMAN SETZLER: Yeah. The
7 Senator from Dorchester was next. Senator, I'll
8 get you. I've got two or three in front of you.
9 I'm trying to take them in order. I would
10 comment, Senator from Orangeburg, I kind of like
11 your idea of going to three or five and tying it
12 to some known entity, maybe circuit judges'
13 salary, and reducing the size. And I think your
14 analogy to the Supreme Court is a great one.
15 All right, Senator from Dorchester.

16 SENATOR BENNETT: Thank you, Mr.
17 Chairman. I certainly would echo that, as well.
18 If it's a way to improve the overall functions
19 of the Commission, I'm open to that as well.
20 The only thing that I would throw out from a
21 qualifications process, and just as a kind of as
22 we move forward think about moment, one of the
23 things that I'm not comfortable with here in
24 South Carolina and certainly was not a focus of
25 the very specific reason why this committee was

1 pulled together to review this nuclear fiasco,
2 as we call it, I'm not comfortable that we have
3 a real clear vision of what our energy policy is
4 in South Carolina.

5 So I say that to say that, while
6 the qualifications may not be an issue, I would
7 like to see us figure out a way to put into
8 place ways in the future to alter those
9 qualifications should that need arise based on
10 energy policy changes going forward, if there's
11 new technologies that aren't being picked up, if
12 there's new functions that we recognize as we
13 have that discussion. I certainly hope we have
14 that overall energy policy discussion moving
15 forward, that we have a mechanism in place maybe
16 over and above what the normal would be of just
17 introducing new legislation at any point in time
18 to revisit those qualifications. But I tend to
19 agree that maybe the qualifications and the
20 rigor, at this point, aren't the biggest
21 objective.

22 And then the other piece is, I
23 think, the 50,000-pound gorilla in the room that
24 we deal with on all elected offices that the
25 General Assembly takes on each year. I have no

1 doubt in my mind that the next three that we
2 elect will be scrutinized heavily because of the
3 situation that we find ourselves in, on the
4 heels of. What I'm not so convinced of is that
5 those elections will be as scrutinized 10 years
6 from now or 15 years from now, much in the same
7 way many of our judicial elections go on in the
8 General Assembly. Again, I don't know, given
9 that the good Lord has provided us free will and
10 we are all elected by our own constituents, I
11 don't know how you legislate those changes, but
12 just to bring it to the body's attention.

13 CHAIRMAN SETZLER: Senator from
14 Dorchester, I'm going to comment on that before
15 I call on the Senator from Fairfield, who's
16 next. I think you make a great (BREAK IN
17 AUDIO), but I think part of that responsibility
18 falls to us, and I've mentioned this from the
19 floor of the Senate numerous times. We need to
20 do the job of screening people, whatever the
21 position is, and that falls to us, and we need
22 to accept that responsibility and not say, well,
23 tell us your name, where you live, and what'd
24 you do; thank you; you're approved to move
25 forward. I think that's -- we've got to deal

1 with a legitimate confirmation process and
2 screening process.

3 SENATOR BENNETT: Mr. Chairman,
4 that's my exact point, so thank you.

5 CHAIRMAN SETZLER: Right.
6 Senator from Fairfield.

7 SENATOR FANNING: And to follow
8 up, Mr. Chairman, I agree that the key being the
9 screening. I just have a quick question. How
10 much do they make now?

11 UNIDENTIFIED SPEAKER:
12 (INDISTINCT)

13 SENATOR FANNING: So if we went
14 from seven to five, we'd move it to 135/140,000.

15 CHAIRMAN SETZLER: Well, I heard
16 a recommendation over here that would be
17 proposed, I think, to tie it to the circuit
18 judges' salary, which what is that currently?

19 UNIDENTIFIED SPEAKER: One
20 thirty-five, eight, or something like that.

21 CHAIRMAN SETZLER: Yeah, 135,
22 Senator.

23 SENATOR FANNING: And I guess my
24 question is -- and I don't know the answer -- is
25 do we really think that, moving it from 100 to

1 138, we're going to get a large number of more
2 qualified people as a result? I'm not saying
3 it's good or bad policy. And then the second
4 is, what message are we sending to the public
5 that reducing the number of people and
6 increasing the salary is going to prevent this
7 from happening again ten years from now, which
8 gets back to the point that you and the Senator
9 from Dorchester just made, is that the real
10 problem or the issue is screening more than the
11 other.

12 CHAIRMAN SETZLER: Okay.

13 SENATOR ALEXANDER: Let me just

14 --

15 CHAIRMAN SETZLER: Senator from
16 Ocone.

17 SENATOR ALEXANDER: Thank you. I
18 said as a minimum for the circuit court. I
19 mean, I think we could maybe -- it probably
20 would be wise for us to do an analysis around
21 some of the other states to see exactly -- it
22 might be as a gauge for what the commissioners
23 are getting paid from that standpoint. I think
24 the point is to have the qualifications that
25 we're looking for, that we put in there, to

1 someone to leave a job that they have now to go
2 into that, at least needs to be at a level that
3 would make it reasonable for them to make that.

4 And I think, again, that we -- to
5 point out is that, with it being a four-year
6 term, there is some, you know, incon -- you're
7 not guaranteed that, after four years, you'll
8 continue to have that job from that standpoint.
9 So the qualification aspect, I think, was that.
10 And, again, I think five would work, but I'm not
11 wed to that. If we wanted to stay with seven, I
12 don't have a problem with that. But I think my
13 point -- the point was there that that has
14 probably been more beneficial to the candidates
15 for having a geographic area to run from, more
16 so than the benefit to the Commission itself in
17 the decisions that have been made from that
18 standpoint.

19 SENATOR FANNING: Thank you, Mr.
20 Chair.

21 CHAIRMAN SETZLER: Senator from
22 Richland.

23 SENATOR SCOTT: Thank you, Mr.
24 Chairman. I think we're back to an age-old
25 conversation, and that is how we maintain some

1 diversity on this commission. If you go from
2 five to seven, paying even 135,000, the
3 likelihood of the talent you're trying to
4 attract, it's just not going to be there. I
5 think seven helps us maintain the diversity, I
6 think, in the committee structure and how you
7 structure the point system. If you're trying to
8 work the gender part in, I think it actually
9 works.

10 But even with circuit court
11 judges making in the state 135,000, compared to
12 109 for PSC commissioner (BREAK IN AUDIO) --
13 back to a real discussion that we have failed in
14 this General Assembly to deal with, and that's
15 to properly pay people in the state. If you're
16 going to attract good talent, you've got to pay
17 good talent. If you look at, in doing the
18 salary, seven people at 109 is 763. That's 152
19 6. Then you create a problem in terms of what
20 judges actually make in the state compared to
21 what the PSC commissioners.

22 You talked about looking across
23 the state -- across the country to see what
24 others pay. I can almost assure you, those
25 numbers are going to look the same way that our

1 legislative pay look -- our judge pay look. We
2 do these studies, we talk about them, and we do
3 absolutely nothing to make that become a
4 reality. And so if you're going to attract good
5 talent, this is what you've got to do. We've
6 got staff people who are attorneys and other
7 folk who have expertise who could easily qualify
8 to go on the Commission based on their talent.

9 But they're not going to go
10 because it doesn't pay anything. And so if pay
11 is an issue and you want to attract people to
12 actually look at it, raise the pay, but just be
13 real concerned that finally you're going to have
14 to really look at a system in the state that we
15 actually pay people based on qualification. We
16 only see a lot of judges come after they've had
17 careers, and this is the close of their career
18 as they come on as judges. And so they've
19 already got something else to supplement
20 (INDISTINCT).

21 I'm interested in bringing -- if
22 you're not satisfied with the screening that we
23 have, I'm interested in finding good talent
24 who's going to come in. I'm also interested in
25 making sure there's a diversity -- and not

1 necessarily in terms of color -- a diversity
2 because you've got private and public entities
3 that come before this commission. I don't want
4 to rule out and forget you've got these co-ops
5 out there, and these folk, some of them
6 represent both the private and the public, and
7 some just represent the public. So I'm not
8 interested in loading this commission with just
9 folk who represent the private part of it. I
10 want to maintain a good, diverse group of
11 individuals.

12 It's worked all this time, and
13 all of a sudden -- and I would like to say it
14 like it is. We kind of dropped the ball on this
15 thing. We didn't put a review process to come
16 back, even for the Commission to come back, to
17 talk to us about what was going on with this.
18 So I'm not interested in not attracting talent.
19 I want to attract good talent. But I want to
20 pay the talent and not pay the talent by
21 reducing the diversity you have, having seven on
22 this commission.

23 CHAIRMAN MASSEY: Mr. Chairman,
24 I'll say I actually -- I don't think there's
25 been diversity on the Public Service Commission,

1 and there's not diversity there now.

2 SENATOR SCOTT: But you at least
3 have one African-American female on the
4 Commission.

5 CHAIRMAN MASSEY: You don't right
6 now.

7 SENATOR SCOTT: Well, that's
8 because she took a better job that paid more
9 money.

10 CHAIRMAN MASSEY: And that's
11 fine, right? I mean, you know, you want people
12 to better themselves. But I think we could do a
13 better job of that, and, actually, I think we do
14 a better job of that with some of the judicial
15 positions than we do -- you know, than we've
16 done over there.

17 But you raised something that
18 kind of sparked a question that I'm interested
19 -- are there prohibitions on people who can
20 apply? For instance, can someone who is --
21 right now can someone who is employed by a
22 regulated utility apply to be a commissioner?

23 SENATOR HUTTO: I think the only
24 prohibition is that they can't be a member of
25 the General Assembly. I think that's the only

1 prohibition.

2 CHAIRMAN SETZLER: Yeah. Well,
3 let's -- and I agree, that's an issue we need to
4 look at, is pro -- persons who might be
5 prohibited from applying. But I think we need
6 to get further down the road on the size and all
7 first, if you don't mind, Senator.

8 CHAIRMAN MASSEY: No, that's
9 fine, but I think that that would be an issue,
10 right? I mean, I don't want somebody who's
11 employed by the regulated utility to be a member
12 of the Commission.

13 SENATOR HUTTO: They wouldn't be
14 once they became on the Commission. That would
15 just be their background.

16 CHAIRMAN SETZLER: Senator from
17 Georgetown.

18 SENATOR GOLDFINCH: I was kind of
19 going in the same direction as Senator Massey.
20 To me, background is more important, maybe even
21 more important than the qualifications. I
22 understand what the qualifications are. I've
23 seen those over the years, but I've heard some
24 of the committee members mention that there's
25 also a background element. Is that a -- when

1 you mean background element, do you mean
2 background as in like SLED background, or do you
3 mean employment background?

4 SENATOR HUTTO: Employment
5 background.

6 SENATOR GOLDFINCH: Could you
7 tell me a little bit about what that is?

8 SENATOR HUTTO: I think the staff
9 may be able to tell you exactly, but they've got
10 to have experience in either utilities, cable,
11 telephone, (INDISTINCT). They've got to have
12 some experience in the --

13 UNIDENTIFIED SPEAKER: Financial.

14 SENATOR HUTTO: Financial, legal.

15 MS. ANDERSON: Yes, sir, you have
16 to have background in the list of items that I
17 read off earlier: energy, finance, statistics,
18 economics. There's also a SLED check.

19 SENATOR GOLDFINCH: And those are
20 rules, or those are statutory that we have
21 written down?

22 MS. ANDERSON: It's statute.

23 SENATOR GOLDFINCH: Okay, and we
24 enforce those with the qualifications together.

25 MS. ANDERSON: Yes, sir.

1 SENATOR GOLDFINCH: It's not as
2 though -- so which is the defining -- in other
3 words, what do you start with?

4 SENATOR HUTTO: We have not
5 allowed candidates to go forward if they didn't
6 meet one of those categories.

7 SENATOR GOLDFINCH: Okay, so you
8 meet the category, and then you meet the
9 qualifications.

10 SENATOR HUTTO: Right. Then you
11 can stand for the exam and go forward.

12 SENATOR GOLDFINCH: That's right?
13 Okay, that sounds good to me. I'm just as
14 interested in -- I mean, I was talking about
15 teachers yesterday, and this is what gave me the
16 same idea. I think we have got a major problem
17 with teachers going forward and not having
18 enough teachers in South Carolina, qualified
19 teachers in South Carolina. And you keep
20 running into this same old thing. That is,
21 you're not going to have a qualified teacher of
22 30 years come back to make \$10,000 a year,
23 right? It's just not going to happen.

24 If we end up putting Santee
25 Cooper under the PSC, you're going to exclude

1 every Santee Cooper member that potentially
2 could or should be on the PSC. And I would
3 assume, at some point, we might -- I don't know
4 if we're already there with regulated utilities
5 anyway, but if your background is supposed to be
6 in utility, finance, law, et cetera, and we've
7 already excluded regulated utilities, and Santee
8 Cooper's now going to fall under as a regulated
9 utility, what's the point in having the rule at
10 all?

11 CHAIRMAN SETZLER: Okay. Senator
12 from Orangeburg was next, and then the Senator
13 from Williamsburg.

14 SENATOR HUTTO: Well, I want to
15 make two points, and I'll go to the last point.
16 I don't know that, if you worked for a utility
17 company and were part of their leadership team
18 or whatever, once you resign -- I mean, yes,
19 you could have a waiting period. You could say
20 you can't have worked there in the last couple
21 of years. But I think those might be exactly
22 the people we want on the PSC, people that have
23 knowledge of the industry and what's going on
24 there, because, in theory, once they take that
25 position, they swear an oath to be neutral and

1 detached and be a judge and carry out the
2 judicial function. Obviously, we elect lawyers
3 to be judges, so you want people with experience
4 in the realm that they're dealing with to be the
5 people that are here.

6 But I want to get to the bigger
7 picture, which is this. There seems to be a
8 notion that if we had more qualified PSC
9 commissioners, this wouldn't have happened. And
10 I'm going to tell you, I don't believe that's
11 true. I believe that the PSC commissioners we
12 have are qualified and remain qualified, and it
13 gets back to something that one of the cochairs
14 said, is that the standard that we set for them
15 to review what comes before them, they've got to
16 review it on the legal standard that comes
17 before them.

18 So if y'all think that
19 something's wrong with the process, it may be
20 that we have set the standard without saying
21 you've got to review the consumer component, or
22 you've got to weigh this component more than
23 that component. But if what we said to them
24 was, If they came before you and they qualify
25 for the increase, then you should give them the

1 increase, it was almost a reverse presumption.
2 They're entitled to it unless there's something
3 that disqualifies them, and I don't know that,
4 if we'd have had, you know, seven Ph.D.
5 candidates that had 30 years' experience, that
6 any of them would rule any different on a single
7 case that came before the PSC.

8 So I don't disagree we could have
9 better screening. I don't disagree that the
10 qualifications should be high. I think the
11 salary should be better. But I don't think we
12 should perpetuate the presumption that the
13 reason this happened was because of the
14 qualifications of the current PSC because I
15 don't believe that to be true.

16 CHAIRMAN MASSEY: Mr. Chairman,
17 if I could follow up on that.

18 CHAIRMAN SETZLER: Yes.

19 CHAIRMAN MASSEY: I agree with
20 that. I mean, and I think I said in here in one
21 of our hearings that, in the beginning, I didn't
22 know whether this was a situation where the PSC
23 members screwed it up or whether the law was
24 drafted in such a way that they were obliged to
25 go in this particular direction. I've come to

1 the conclusion that it was -- that the way the
2 law is written guided what happened. So I don't
3 place fault on that, necessarily, with PSC as
4 much as -- I mean, I think more of that fault
5 lies here more so than that.

6 But I do think that what this
7 whole process has brought to light is that there
8 are things that we could do to improve the
9 candidates for those commission positions, and
10 one of the things that I think even the Senator
11 from Horry brought out is dealing with the pool
12 of candidates. I mean, it does seem to me that
13 if we can do some things -- I mean, it's all
14 somewhat related. I don't want to indicate that
15 I'm blaming them for what's happened, but I do
16 think that we could do a better job of screening
17 those candidates and getting better candidates.
18 And if we can do that by having more of a
19 statewide focus more than a regional focus -- at
20 least written down because I agree with your
21 points about that too. We take that into
22 consideration when we vote.

23 If we need to increase the salary
24 and reduce the numbers -- I mean, actually, I'm
25 very intrigued by what you and the Senator from

1 Oconee -- independently putting these things
2 together about the idea of reducing it to five,
3 tying it to circuit judges, and having it be
4 statewide as opposed to limited regionally. I
5 think you'll get a bigger pool of qualified
6 candidates that way.

7 CHAIRMAN SETZLER: Senator from
8 Williamsburg, you were next.

9 SENATOR SAAB: Thank you, Mr.
10 Chairman.

11 CHAIRMAN SETZLER: Senator from
12 Edgefield inserted himself in front of you.

13 SENATOR SAAB: No, we actually
14 wanted to express our appreciation to the
15 Senator from Edgefield and our other cochair.
16 You all mentioned earlier about us as committee
17 members and being here and being focused and all
18 of that. I think we'd be remiss if we didn't
19 also express our appreciation for the manner in
20 which you all have led us through this process.
21 So to that extent, I was delighted to yield to
22 the Senator from Edgefield.

23 Just on the issue of retention
24 and attracting highly qualified individuals, I
25 think a couple of things -- I think that

1 oftentimes when people look to jobs -- and
2 somebody said it earlier, the uncertainty of
3 this particular position in that they're elected
4 every four years. I mean, we create the number
5 of years, and so I don't know whether or not we
6 should be wed to every four years, is my first
7 point.

8 My second point is, as we look at
9 judges -- and for the most part, they are
10 second-career individuals, having been a lawyer
11 -- and what I'm hearing, and perhaps somebody on
12 the committee can enlighten me, but what I'm
13 hearing is that, for the most part, our members
14 who sit on this commission are second-career
15 individuals. Is that a fair statement?

16 SENATOR ALEXANDER: For the most
17 part, mm-hmm.

18 SENATOR HUTTO: Yeah, a lot of
19 them were local elected officials or business
20 folks.

21 SENATOR SAAB: So we're --

22 SENATOR HUTTO: We had a couple
23 of attorneys.

24 SENATOR SAAB: Yeah, so we're
25 kind of dealing with folks who would not be at

1 the beginning of their career, but would be
2 somewhere in the middle, I suppose. But I was
3 thinking, there are other things that attract
4 folks to positions other than pay. Retirement
5 is one, and so to the extent that our federal --
6 strike that -- our state judges vest in the
7 retirement, I think perhaps we may want to look
8 at the idea of whether or not they vest at --
9 and perhaps that's in play right now. I don't
10 know. Maybe somebody can speak to that. How do
11 they vest into the retirement system?

12 SENATOR ALEXANDER: They're
13 considered -- Mr. Chairman, they're considered
14 state employees, so they would vest as a state
15 employ would vest.

16 SENATOR SAAB: So if we were to
17 alter that and tie it in the way that we tie in
18 our judge retirement, I think that's something
19 that persons who are interested in this kind of
20 job would be attracted to. So I would conclude
21 by summarizing that I think that perhaps we
22 ought to consider altering the number of years
23 it takes for them to be elected, and I think we
24 ought to consider the idea of altering the
25 period of time that it takes them to vest into

1 the retirement system. I think those two
2 things, along with the pay increase, would make
3 the position more attractive.

4 SENATOR HUTTO: Mr. Chairman?

5 CHAIRMAN SETZLER: Yes, sir,
6 Senator from Orangeburg.

7 SENATOR HUTTO: Let me ask you to
8 just reflect to yourself, because you've
9 probably had it happen to you, if somebody came
10 to you and said, Hey, I think I want to be on
11 the PSC, what would you tell them as far as the
12 stability of trying to make that a decision
13 (BREAK IN AUDIO)? First of all, you're going to
14 say, well, it's sort of a political thing
15 because you're going to have to actually go up
16 and shake hands with 170 people you don't know
17 and talk to them and try to get elected, and
18 you're going to have to take this test, and it
19 may be -- you're going to have to study hard
20 because it doesn't have a great pass rate, and
21 you're going to have to go subject yourself to
22 screening and a public hearing.

23 And I'm not saying any of those
24 things are wrong, but if you've got a person
25 who's looking to move up and move to another job

1 and one thing says, You can go have an interview
2 with somebody, and if you meet the
3 qualifications, they're going to hire you on,
4 and the other is, You've got to make this
5 application; then you've got to take this test;
6 then you've got to go to a public hearing, be
7 subjected to questions about what you missed on
8 the test; you've got to have -- then you've got
9 to endure the challenge -- and judges do it.
10 I'm not saying there's anything wrong with the
11 process, but it's not something that -- I tell
12 people, when they think about going on the PSC,
13 it's a long slog, and you just have to be
14 prepared to endure what goes along with that,
15 and it's not like applying for a job.

16 So maybe there's a better way to
17 do it. I'm not saying that there is, but I
18 think that the daunting series -- I mean, it's
19 like a six-month application process with
20 hurdles in between. If you're looking to move
21 up in life, switch careers, or whatever you want
22 to call it, that's probably not the model you
23 would pick for stability, okay? It's -- if we
24 screen out three, only one out of the three is
25 going to make it, and the others might say,

1 well, I've wasted six months because I really
2 was looking to move on to another career.

3 SENATOR SAAB: So -- Mr. Chair,
4 if I -- let me beg to differ just a wee bit.
5 You know, I do think that their callings and the
6 impact that folks get an opportunity to make on
7 the PSC is significant. When I listened to the
8 Senator from Dorchester talk about an energy
9 policy and those persons being a part of that
10 process, I mean, I think stuff like that is
11 significant. So no question, there are hurdles
12 and all of those kinds of things that folks have
13 to jump into.

14 I guess I just digress for a
15 moment back to the points that I made earlier.
16 If, in fact, our intent is to try to make what
17 we're offering more attractive, I do believe
18 that, if you've got a system where one vests in
19 ten years and they're elected to six-year terms,
20 then one would say to themselves, well, gee, if
21 I get elected and if I get reelected, there is
22 stability there. So I just think it's -- a
23 couple of ways to make it more attractive.

24 SENATOR HUTTO: I was just saying
25 that that may explain why you don't have a

1 tremendous pool of applicants.

2 SENATOR SAAB: Yes.

3 SENATOR HUTTO: Because the
4 trajectory to get there is different than just
5 moving to a different career.

6 SENATOR SAAB: True.

7 CHAIRMAN SETZLER: Okay, Senator
8 from Oconee.

9 SENATOR ALEXANDER: I just
10 wanted, if I could get back -- I think the
11 question on the conflict of interest and
12 commission members and employees -- I just
13 wanted to share that information with you, with
14 the committee.

15 CHAIRMAN SETZLER: Okay, I think
16 that's important.

17 SENATOR ALEXANDER: Under 58-3-
18 25, "unless otherwise provided by law, no person
19 may serve as a member of the commission if the
20 commission regulates any business with which
21 that person is associated. (B) If the
22 commission regulates a business with which an
23 employee of the commission is associated, the
24 employee must annually file a statement of
25 economic interests notwithstanding the

1 provisions of Section 8-13-1110.” And finally,
2 Subsection C, “No person may be an employee of
3 the commission if the commission regulates a
4 business with which the employee is associated,
5 and this relationship creates a continuing or
6 frequent conflict with the performance of his
7 official responsibilities.” So we’ve spoken
8 from that aspect.

9 CHAIRMAN SETZLER: Okay. Yes,
10 Senator from Georgetown.

11 SENATOR GOLDFINCH: Does an
12 association mean a retirement account? If I
13 have a retirement plan from SCANA or Santee
14 Cooper, for that matter, if Santee Cooper comes
15 under PSC, is that an association?

16 SENATOR ALEXANDER: We’ve not had
17 that issue. We’ll just have to --

18 SENATOR GOLDFINCH: Maybe we
19 should have that issue, quite honestly.

20 CHAIRMAN SETZLER: Why don’t we
21 ask staff to look at that, Senator from
22 Georgetown?

23 SENATOR ALEXANDER: It’s my
24 understanding we have asked them to diversify
25 themselves of some stocks if -- from that

1 standpoint.

2 CHAIRMAN SETZLER: Senator for
3 Williamsburg, just for your information, I'm
4 informed by staff that the current vesting is at
5 ten years on the PSC.

6 SENATOR SAAB: For retirement?

7 CHAIRMAN SETZLER: Yeah. Okay,
8 Senator from Edgefield.

9 CHAIRMAN MASSEY: Mr. Chairman, I
10 guess we've got to decide, as a committee,
11 whether we want to move forward with a
12 recommendation in this particular area.

13 CHAIRMAN SETZLER: And we've got
14 a lot of ground to cover today. We've got hours
15 to go yet.

16 CHAIRMAN MASSEY: We haven't
17 gotten to the real controversial stuff yet. And
18 so there are two things then, I guess, on this
19 that I've heard us talking about specifically,
20 and so I guess -- one is, does the committee
21 want to move forward with adjusting the number
22 of commissioners and the pay, that type of
23 thing, like we had talked about with maybe going
24 to five or some other number, with tying it to
25 the circuit judges' salary and having to be

1 statewide as opposed to regional? I guess, does
2 the committee want to do that?

3 And all we're talking about at
4 this point, of course, is introducing
5 legislation that the committee might get behind,
6 and what happens from that point, I don't know.
7 But if we don't want to do that, we don't want
8 to do that, but.

9 CHAIRMAN SETZLER: Yes, Senator
10 from Fairfield.

11 SENATOR FANNING: I just -- if
12 we're looking at what caused this fiasco and
13 trying to prevent it from happening again, I
14 just don't know that raising the pay and
15 reducing the number of PSC commissioners, even
16 if a good idea, is the root cause of the
17 problem. I tend to agree with the Senator from
18 Orangeburg that the screening process and,
19 probably more specifically, the legal parameters
20 that we give the PSC probably played a bigger
21 role before and will play a bigger role
22 afterwards. It doesn't mean that it might not
23 be an idea worth taking up, but I don't know
24 that it hits the root of why we're here.

25 SENATOR RANKIN: I'm going to

1 echo that, Mr. Chairman, again, if I may. The
2 seven congressional districts, we have those for
3 a reason. I mean, there's a sense of being shut
4 out because you've got more votes in the House
5 and the Senate, (INDISTINCT) group's going to
6 get it. I think that may offer more of a
7 cynical view, perhaps, versus a transparent
8 view. Regional or no, these -- I dare say, PSC
9 decisions, if there's a dissenting vote -- I
10 would almost predict that these would be
11 unanimous decisions. I don't know that, but I
12 don't think five is better than seven. We've
13 got a framework that applies on multiple fronts.
14 But, again, that's just one.

15 CHAIRMAN SETZLER: Okay.

16 CHAIRMAN MASSEY: All right, so
17 then is it -- I mean, is there any -- is there
18 anybody on the committee who wants to move
19 forward with doing something along those lines?

20 SENATOR HUTTO: I do. I just
21 think the quality of the applicant you're going
22 to get is somewhat restricted at the current pay
23 that they make. The difference between five and
24 seven, I don't have a strong feeling about. I
25 kind of like five because I think then you put a

1 quality on the five most competent people versus
2 regional. Regional diversity has some merit,
3 but, to me, other diversity is more important
4 than regional diversity because everybody who
5 acts at the PSC is not supposed to bring their
6 regional bias to the decision. In fact, that'd
7 be wrong to bring your regional bias to the
8 decision. You're supposed to be fair, neutral,
9 detached, impartial, and so just because you're
10 from the Pee Dee doesn't mean you're supposed to
11 vote the way that people in the Pee Dee think.
12 You're supposed to vote from what the evidence
13 suggests is the right decision to make.

14 So, granted, seven will give you
15 a chance at more diversity, but I think the more
16 important thing for the quality of the pool of
17 the applicants would be to tie the pay to the
18 judicial salaries and maybe even put them in
19 judicial retirement. And, look, we're talking
20 -- that would cost the state roughly -- less
21 than \$200,000 a year to make that switch, and
22 I'm not saying that's insubstantial, but I
23 think, if it's substantial enough to improve the
24 quality of the application, that it's worth
25 thinking about.

1 CHAIRMAN SETZLER: Senator from
2 Georgetown.

3 SENATOR GOLDFINCH: I was going
4 to ask -- and maybe that's a question for
5 Senator Leatherman at some point -- but I was
6 going to ask if the two are mutually exclusive.
7 I mean, if we're going to stay at seven, why --
8 there's a whole bunch of salaries that are tied
9 to the Chief Justice's salary. I mean, a whole
10 bunch of them. Is there any reason why we can't
11 tie the PSC's salaries to the Chief Justice
12 salary and just move on?

13 CHAIRMAN SETZLER: Well, I think
14 you can do that if that's the will of the
15 committee. I think the question still is the
16 quality of the pool of applicants, whether
17 you're able to do that. I don't think it's a
18 question that the Commission acted wrong or that
19 they're at fault with where we are. I think the
20 question is, Is there a way to improve the
21 operation on a forward-moving path for the
22 people of South Carolina? That's the question,
23 and there clearly is a division among this
24 committee, and that's the reason we're here, to
25 discuss it.

1 SENATOR ALEXANDER: Mr. Chairman?

2 CHAIRMAN SETZLER: Senator from
3 Ocone.

4 SENATOR ALEXANDER: Two points.
5 I mean, I agree. Personally, I can live with
6 the seven, but I think five is -- I mean, we've
7 got five on the Supreme Court. We don't have
8 seven. And then I certainly support tying it,
9 at least as a minimum, to the circuit (BREAK IN
10 AUDIO) pay and stuff. And, obviously, there
11 will be much more discussion on the five versus
12 the seven as we go through the process, so I'd
13 like to see us not get too bogged down.

14 But the other point I want to
15 make is, I'd like for this committee to speak
16 about wanting the appointments reopened, the
17 filing reopened, so that --

18 CHAIRMAN SETZLER: Well, let's
19 take them one at a time.

20 SENATOR ALEXANDER: Okay.

21 CHAIRMAN SETZLER: I think we've
22 got to do that. Senator from Georgetown.

23 SENATOR GOLDFINCH: Mr. Chairman,
24 if -- so we have seven -- to make sure I've got
25 my head straight -- we have seven, one from each

1 congressional district right now, right?

2 CHAIRMAN SETZLER: Correct.

3 SENATOR GOLDFINCH: Is there any
4 reason we can't make it five and two at-large?
5 I mean, I know that we have seven congressional
6 districts. I get that. But, I mean, is there a
7 way -- is there a precedent for doing that, for
8 rotating through and making two that are at-
9 large? Does anybody have any history on that?

10 SENATOR HUTTO: We can do
11 whatever we want to.

12 SENATOR GOLDFINCH: Oh, yeah. I
13 know. I'm trying to split the baby, and maybe
14 we shouldn't try to split the baby.

15 CHAIRMAN SETZLER: Senator from
16 Richland.

17 SENATOR SCOTT: Mr. Chairman,
18 seven I'm comfortable with. I'm also
19 comfortable if you want to tie those salaries to
20 the circuit court judges, 135. It's \$182,000
21 different. The five just gives me a little
22 heartburn. I don't think you're going to pick
23 up what I think is comfortable, and I agree with
24 the Senator from Oconee, who chairs the
25 committee. I would like to make sure that we

1 maintain a regional concept with it. But if pay
2 is an issue, let's take care of the pay.

3 But I also agree with the Senator
4 from Williamsburg County, who talked about, if
5 you're going to make it look like the circuit
6 court, let's add all of the ingredients that
7 goes with it and just let the statute read the
8 same way, with the exception of the
9 qualification part of it, as it relates to the
10 benefits and to the salaries. And I think
11 that's probably bringing everybody midway.

12 CHAIRMAN SETZLER: Okay, well, we
13 clearly do not have a consensus at this point.
14 Senator from Oconee.

15 SENATOR ALEXANDER: Mr. Chairman,
16 one other thing I would add to it -- and I hear
17 the concern from the Chairman of Judiciary and
18 others about the seven and geographic diversity
19 -- we do have an organization for the state that
20 has a lot of experience drawing maps and
21 different regional things, so it would be a way
22 that maybe, if we want to go with the five, we
23 could do that, but have some direction from that
24 standpoint. Those folks have a lot of
25 experience from that standpoint, so I would

1 offer that as maybe a way to understand the
2 concern of making sure each region has some
3 representation from that standpoint. Just a
4 thought.

5 CHAIRMAN SETZLER: Not a bad idea
6 either. Okay, what is the will of the
7 committee?

8 CHAIRMAN MASSEY: Well, then let
9 me -- Mr. Chairman, let me do it this way. Let
10 me make a motion. If it passes, it passes. If
11 it doesn't, it doesn't, and we can move on.

12 CHAIRMAN SETZLER: Okay.

13 CHAIRMAN MASSEY: I think we need
14 to move on.

15 CHAIRMAN SETZLER: I agree.

16 CHAIRMAN MASSEY: So on this
17 issue, then I would move that the committee
18 support introducing legislation that reduces the
19 PSC commission from seven members to five, that
20 they all be at-large, that the salary be tied to
21 circuit judges' salary, and that they be
22 permitted to be part of the judicial retirement
23 system.

24 CHAIRMAN SETZLER: Is there a
25 second? We have a second. Any further

1 discussion? Everybody ready to vote? All those
2 in favor, raise your right hand. All opposed,
3 raise your right hand. Seven-four, okay, and
4 it's going to Judiciary and the subcommittee of
5 Judiciary before it comes out. All right.

6 CHAIRMAN MASSEY: Mr. Chairman,
7 the other issue on the PSC -- and the Senator
8 from Oconee just brought it up -- I would
9 recommend that this committee support reopening
10 filing for the existing three seats that are up
11 for election next year, and, I mean, I don't --
12 maybe we need some help on how long you open the
13 filing and all that stuff, but I would like for
14 us to be able to have an election in the spring.
15 But I do think it would be good to open the
16 filing again, in light of everything that's
17 happened over the last few months.

18 CHAIRMAN SETZLER: Senator from
19 Lancaster.

20 SENATOR GREGORY: Sir, I was just
21 wondering how many candidates we have now.

22 CHAIRMAN SETZLER: I can't
23 answer.

24 MS. ANDERSON: I believe there
25 are seven.

1 CHAIRMAN SETZLER: Seven for
2 three seats?

3 CHAIRMAN MASSEY: But are they --
4 are all the seats contested?

5 MS. ANDERSON: (SHAKING HEAD)

6 CHAIRMAN MASSEY: Yeah, so there
7 are -- so you've got some --

8 UNIDENTIFIED SPEAKER:

9 (INDISTINCT)

10 CHAIRMAN MASSEY: I'm sorry?

11 UNIDENTIFIED SPEAKER:

12 (INDISTINCT)

13 CHAIRMAN SETZLER: Senator from
14 Orangeburg.

15 CHAIRMAN MASSEY: But all the
16 three -- but the three seats that are --

17 SENATOR HUTTO: Seven for three,
18 but we have not vetted those yet to even know
19 that all seven even meet the basic
20 qualifications for background. I mean, somebody
21 could have applied with a high school education;
22 they're not going to move forward. Or they may
23 not have a substantial background in accounting
24 or industry, and they're not going to move
25 forward. So the fact that you've got seven

1 people on the line doesn't necessarily mean that
2 there's seven viable candidates. (INDISTINCT)

3 CHAIRMAN MASSEY: Are there at
4 least --

5 SENATOR HUTTO: How many of those
6 would pass the test is yet another question, so.

7 CHAIRMAN MASSEY: Are there at
8 least two candidates that have filed for every
9 seat? No. That was my concern, too, that some
10 of them are uncontested. At least one of them
11 is uncontested.

12 SENATOR HUTTO: Mr. Chairman?

13 CHAIRMAN SETZLER: Yes, sir,
14 Senator from Orangeburg.

15 SENATOR HUTTO: I don't have a
16 problem with reopening the screening. In fact,
17 I kind of think we should. I just want you --

18 CHAIRMAN SETZLER: The filing,
19 not the screening.

20 SENATOR HUTTO: The filing. I
21 just want to say that that would be at odds with
22 what will happen if we vote to go to five. I
23 don't --

24 CHAIRMAN MASSEY: I don't think
25 -- I think, in the best-case scenario, that

1 would not be effective in 2018 anyway, so.

2 CHAIRMAN SETZLER: Yeah.

3 SENATOR ALEXANDER: And, Mr.
4 Chairman, I think --

5 CHAIRMAN SETZLER: Yes, sir,
6 Senator from Oconee.

7 SENATOR ALEXANDER: To that
8 point, I think we need that consistency on the
9 Commission as a transition from that standpoint.
10 So we -- so I do think, at some point, we need
11 to move forward, so I would support us reopening
12 the filing. And then there is a process for the
13 advertising and for the test, and people -- you
14 know, that's another thing, that there's people
15 -- to have the ability to respond and things.
16 So, I mean, it's not a two- or three-week
17 period. So, I mean, I think -- that's the
18 reason I wanted some direction from this body so
19 that we could know how to move forward from that
20 standpoint.

21 CHAIRMAN MASSEY: Let me ask you
22 this real quick. Do you need legislation in
23 order to reopen it, or do you just need some
24 general consensus from the body that we ought to
25 reopen it?

1 CHAIRMAN SETZLER: I think you --

2 SENATOR HUTTO: We could reopen
3 it.

4 CHAIRMAN SETZLER: Y'all can do
5 it?

6 SENATOR ALEXANDER: I think the
7 committee could. The committee could that's
8 charged with that responsibility now, and I
9 would say that the reason that we did the
10 screening schedule as we did was trying to make
11 sure that we got the election with the
12 shortening of the legislative session. So,
13 really, it's about this time, is when we have
14 normally in the past, I guess, started that
15 process. So we could, I think, still envision
16 -- it would take a joint resolution to schedule
17 the election, so that could be done toward the
18 end of our legislative session.

19 CHAIRMAN SETZLER: So do we have
20 a consensus out of the committee to ask them --
21 to ask the current PURC committee to reopen the
22 filing for the current PSC seats? All those in
23 favor, raise your right hand. All opposed, no.
24 It's unanimous, okay.

25 SENATOR SCOTT: Mr. Chairman?

1 CHAIRMAN SETZLER: Yes, sir,
2 Senator from Richland.

3 SENATOR SCOTT: Now that the
4 conversation about a majority vote is five, if
5 you open the process up and you don't get the
6 legislation through, how do you plan to decrease
7 this thing from seven down to five, having just
8 put three new people on and the other four come
9 up next year? I'm just trying to follow,
10 through my own mind process, how you plan to do
11 that?

12 CHAIRMAN MASSEY: I think that's
13 a --

14 SENATOR SCOTT: Legislation is --
15 I mean, you can say legislation, but give me a
16 step-by-step how you achieve it without really
17 interrupting the process as well as the
18 staggered terms that you do, in fact, have on
19 the Commission. Are you throwing the staggered
20 commissioners out the window now and saying we
21 have five, or is it that we just start at one
22 blank part and say, okay, there are going to be
23 five members of this commission? If so, these
24 folk need to be told, who's running now, those
25 terms won't be four-year terms.

1 CHAIRMAN SETZLER: Okay.

2 SENATOR SCOTT: They're going to
3 only be two-year terms.

4 CHAIRMAN SETZLER: I think
5 Heather can answer the question, Senator from
6 Richland. I'm not cutting you off, but I think
7 she can answer your question.

8 SENATOR SCOTT: Oh, no, it's
9 fine. I just want some answers.

10 MS. ANDERSON: Depending on
11 however the General Assembly wanted to handle
12 this, something like that could be addressed
13 through the enactment date.

14 CHAIRMAN SETZLER: Okay. All
15 right. Next, we had talked about the mission
16 change for the Public Service Commission, to
17 give the balancing test to the PSC and not ORS.

18 CHAIRMAN MASSEY: Before we get
19 to that, Mr. Chairman --

20 CHAIRMAN SETZLER: Okay, yes.

21 CHAIRMAN MASSEY: -- somebody had
22 suggested requiring the Public Service
23 Commission to stream all of their hearings
24 online. Does anybody have a problem with that?
25 Okay. I mean, honestly, it shouldn't require

1 legislation (INDISTINCT) --

2 CHAIRMAN SETZLER: Any objection
3 to including it? Okay. Next item is going to
4 be the balancing test.

5 CHAIRMAN MASSEY: All right, Mr.
6 Chairman, I think, if I remember, this
7 suggestion was dealing with -- right now ORS's
8 mandate requires that they conduct a balancing
9 test, right, and we talked about this some
10 earlier, with requiring them to consider several
11 different things. Included among those are the
12 utility, the consumers, economic development,
13 and those sorts of things.

14 And if we're going to move
15 forward, as we suggested, to reduce those
16 mandates for ORS, then perhaps we ought to
17 ensure that the PSC is going to consider those
18 things, which makes sense, to me at least. If
19 you're looking at them as a judicial-type body,
20 they ought to be considering all those things
21 before making the decision, I think. But,
22 really, what we're talking about, I think, is
23 transferring over to PSC the obligation to
24 consider all those things that the ORS does now.

25 CHAIRMAN SETZLER: Okay. Anybody

1 object to that?

2 UNIDENTIFIED SPEAKER: What are
3 we (INDISTINCT)? I'm lost.

4 CHAIRMAN MASSEY: Earlier, we
5 talked about -- or we had the conversation about
6 ORS. We were talking about the consumer
7 advocate. One of the things we talked about
8 there was reducing the number of mandates that
9 ORS has, the competing interests that they have,
10 right, to take away those competing interests so
11 that that they're going to be focused on
12 consumers, right? But those things, those
13 competing interests, do need to be considered.
14 And so what this would do -- I think this idea
15 was just to ensure that PSC knows they're
16 supposed to consider all those competing
17 interests when making a decision.

18 CHAIRMAN SETZLER: Without
19 objection. All right. Next, Santee Cooper.

20 SENATOR GOLDFINCH: (INDISTINCT)

21 CHAIRMAN SETZLER: Yes, sir?

22 SENATOR GOLDFINCH: (INDISTINCT)

23 CHAIRMAN SETZLER: Yes, sir.

24 SENATOR GOLDFINCH: I don't have
25 that same list that y'all are going down, so I

1 --

2 CHAIRMAN SETZLER: We just did it
3 as a work list, to be honest with you.

4 SENATOR GOLDFINCH: That's fine.
5 I just wanted to make sure that I'm not going to
6 miss some -- I don't want us to get off of
7 something and then miss something. So are we
8 going to get back to Senator Alexander's point
9 on, you know, who can and can't be on PS -- are
10 we -- was that wrapped in any of the prior
11 motions, who can and can't be on there?

12 CHAIRMAN SETZLER: It was not. I
13 think, when he read the exclusions, there was an
14 assumption that was sufficient, so if we need to
15 go back to that, let's go back to it.

16 SENATOR GOLDFINCH: I just want
17 to make sure that that's checked. We don't have
18 to vote on it or anything, but I want to make
19 sure that's checked by staff and everybody's
20 comfortable with who can and can't be and
21 whether or not we actually want SCANA folks and
22 Santee Cooper on the PSC in the future. I do,
23 personally. I think it's a good idea to have
24 those veterans on there. But to me, I'm afraid
25 that we might end up in a situation where we

1 can't if we -- you know, according to the letter
2 of the law.

3 UNIDENTIFIED SPEAKER: we'll get
4 staff to check on that.

5 CHAIRMAN SETZLER: we'll get them
6 to look at it, Senator from Georgetown.

7 SENATOR GOLDFINCH: Thank you,
8 sir.

9 CHAIRMAN SETZLER: Yes, sir?

10 SENATOR FANNING: Mr. Chair?

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

13 SENATOR FANNING: Forgive me.
14 One of the ideas I had involved giving ORS some
15 teeth. Is that appropriate now, or should we go
16 to Santee Cooper?

17 CHAIRMAN SETZLER: No, it's now.

18 SENATOR FANNING: Okay.

19 Remember, throughout the process, ORS had
20 trouble getting information, and at times, they
21 were said -- a member of SCANA said, well, if
22 they'd have asked, we'd have told them. And
23 ORS, of course, had no idea what the Bechtel
24 report was to even ask, or this PowerPoint we're
25 getting in. So I was wondering if we could talk

1 a little bit about giving them maybe subpoena
2 power.

3 CHAIRMAN SETZLER: I think,
4 Senator, we included that when we talked about
5 giving them the enforcement powers (INDISTINCT).

6 SENATOR FANNING: Okay. And that
7 included subpoena power?

8 CHAIRMAN SETZLER: Yeah, I think
9 that's wrapped up. Yeah, mm-hmm.

10 SENATOR FANNING: And we talked
11 about this in prior meetings, and it may be
12 wrapped in as well, but currently if you don't
13 do what ORS says, there's no real penalty. And
14 we talked about maybe making it a misdemeanor if
15 ORS asks for -- have we already covered that by
16 doing the enforcement powers?

17 CHAIRMAN SETZLER: I don't think
18 we talked about any criminal.

19 CHAIRMAN MASSEY: I don't think
20 we did talk about that, but I think those are
21 very good points. I mean, I actually think, if
22 you're going to have a real consumer advocate,
23 if they're going to be able to advocate
24 effectively, they ought to be entitled to
25 everything that the utility has. I mean, the

1 utility shouldn't be able to keep anything from
2 them. And, honestly, I don't even think it
3 should be a subpoena requirement. I think they
4 ought to just be like an automatic disclosure
5 requirement of all those things, but, I mean, we
6 can talk about that.

7 But I also think -- and this is
8 one of the -- in talking with staff, we had a
9 conversation about this, that if you -- you
10 probably do need some enforcement mechanism to
11 ensure everything is turned over, and maybe you
12 can empower the PSC to act kind of like as a
13 judge would in that respect. If ORS believes a
14 utility has not given them what they're required
15 to give them, then they could move before the
16 PSC to compel the disclosure of that
17 information. But I see your point.

18 CHAIRMAN SETZLER: Add subpoenas?

19 SENATOR FANNING: I feel
20 comfortable with that. Can we do that?

21 CHAIRMAN SETZLER: Yeah.

22 SENATOR ALEXANDER: Mr. Chairman,
23 also --

24 CHAIRMAN SETZLER: Senator from
25 Oconee.

1 SENATOR ALEXANDER: And I fully
2 support that. I had that on my list, not only
3 doing that, but also I think we need to do it
4 not only from a company basis, but an individual
5 basis if there's a way that we could incorporate
6 that, if there's someone within that
7 organization that is not -- that's held
8 responsible from that, that there ought to be
9 some type of teeth, some type of a penalty,
10 whatever y'all feel would be appropriate. Maybe
11 have staff research that aspect. But I think
12 right on that line, that would be very critical
13 to us going forward.

14 CHAIRMAN SETZLER: Anybody got
15 any objection with staff including that in the
16 legislation? Okay.

17 UNIDENTIFIED SPEAKER:
18 (INDISTINCT)

19 CHAIRMAN SETZLER: Right, right.

20 CHAIRMAN MASSEY: I think we
21 should include that in the ORS --

22 CHAIRMAN SETZLER: Right, in the
23 ORS --

24 CHAIRMAN MASSEY: -- portion.

25 CHAIRMAN SETZLER: -- portion.

1 CHAIRMAN MASSEY: Thanks for
2 bringing that up because I had that and forgot
3 to mention it.

4 CHAIRMAN SETZLER: Okay.

5 CHAIRMAN MASSEY: Did you have
6 something? Did you want to add something on
7 that?

8 SENATOR SCOTT: No, I'm fine.
9 I'm just in agreement with you on that, I mean,
10 especially the disclosure part, as long as
11 subpoena power is in it to we make sure we get
12 what we need. But I do not want to walk away
13 from that. I'm really concerned -- I mean,
14 misdemeanor, but what does that actually really
15 do in terms of the next time around, the company
16 who didn't give it, unless it's -- unless some
17 teeth are in it, fines, actual fines for not
18 actually do -- well, I don't know what we can/we
19 cannot, but a fine for not disclosing
20 information and it took the subpoena to actually
21 find it. But look to see what we actually can
22 do. That's what really gets their attention. A
23 misdemeanor, that's just a slap on the wrist.

24 CHAIRMAN SETZLER: I think staff
25 will do that. Okay. All right, the Senator

1 from Edgefield.

2 CHAIRMAN MASSEY: All right, Mr.
3 Chairman, that was all we had that the people
4 had asked about for PSC.

5 CHAIRMAN SETZLER: Correct.

6 CHAIRMAN MASSEY: Unless there's
7 anything else that somebody wants to talk about,
8 the next category that we had down on the list
9 were -- did you have something else, Senator
10 Fanning?

11 SENATOR FANNING: The
12 relationship (INDISTINCT) to Santee Cooper
13 (INDISTINCT) --

14 CHAIRMAN SETZLER: Yeah.

15 CHAIRMAN MASSEY: Right, and,
16 actually, the next thing we're getting to is
17 Santee Cooper, and that's one of the things --
18 and that's the last thing on my list because
19 that may be the most controversial, but that is
20 on the list. So, all right, so we can move on
21 to Santee Cooper. And, Mr. Chairman, just so I
22 know -- I don't want us to get in trouble again.
23 We are planning to take a lunch break at some
24 point in the next little while. Just I want to
25 make sure --

1 CHAIRMAN SETZLER: Senator from
2 Williamsburg is --

3 CHAIRMAN MASSEY: I want to make
4 sure the Senator from Williamsburg (INDISTINCT)
5 --

6 CHAIRMAN SETZLER: -- has assured
7 us, at the last meeting, he's got the votes to
8 recess for lunch whether we want to or not. So
9 I believe we will recess for a short lunch,
10 yeah.

11 CHAIRMAN MASSEY: Well, then
12 let's try to move through the Santee Cooper
13 conversation and see how that goes.

14 CHAIRMAN SETZLER: Let's go.

15 CHAIRMAN MASSEY: All right. The
16 first thing -- and this is similar to what we
17 were talking about with the PSC commissioners,
18 but there was some questions about whether we
19 need to change or add to the qualifications for
20 Santee Cooper board members and their terms, I
21 think, which are seven years, along those lines.
22 And I guess, on that point, I'd be interested,
23 again, in what the senators who serve on the
24 review committee have seen with that as to
25 whether we need to do anything on qualifications

1 for the terms and things along those lines.

2 UNIDENTIFIED SPEAKER:

3 (INDISTINCT)

4 SENATOR RANKIN: Yeah, and I was
5 trying to answer another question first.
6 Similar to the PSC screening, we have a similar
7 screening of the Santee Cooper members who are
8 nominated by the Governor. And it's a seven-
9 year term. I would say -- and maybe not -- and,
10 Heather, correct me if I'm wrong -- the testing
11 is nowhere near as technical and diverse. It
12 certainly is financial. It certainly is
13 particular to Santee Cooper's mission, its
14 bonding capacity, its financial side, the
15 various interests of the lakes, the properties
16 that they own, as well as the economic
17 development tasks that they have. But this is
18 not a repetitive screening. It is one, again,
19 at the pleasure of the Governor, who nominates
20 the particular board members.

21 Now, have we found someone
22 unqualified? We -- Heather, I think someone has
23 withdrawn based on the objective educational
24 piece that they brought or perhaps lacked. But,
25 likewise, as we talked about earlier in terms of

1 the various background that they have to have,
2 there's a specific list, and one of the key
3 things that we put in there when we required
4 this back -- and everyone remembers, perhaps,
5 Governor Sanford and the effort, some said, to
6 sell Santee Cooper and the move to put folks
7 that we in the Judiciary Committee screened --
8 and I'll never forget, we met on the last day of
9 session and went into the theater, effectively,
10 a group en masse with hands up. You vowed to do
11 X, Y, and Z. We'd screen these folks out, but,
12 nonetheless, that's what brought about the
13 change to our screening itself.

14 But, again, I'm open to
15 suggestions on this. I have chaired these.
16 We've examined these folks under oath. Half of
17 the PURC committee participates in that. The
18 other half participates in the PSC screening.
19 It's an open process. And I would suggest to
20 you that the present board, as well as those in
21 the past, have effectively done well with what
22 they've gotten. The criticism might be -- no
23 offense to the present executive committee or
24 past -- but perhaps the criticism might be that
25 the executive management team has not been as

1 transparent, and could it be said that the full
2 board should have more information, that -- and
3 I -- should the executive management have more
4 involvement with the majority of the board?
5 That's open for review.

6 So (BREAK IN AUDIO) -- now have a
7 lot of skill where before had none, other than
8 political patronage. It's going to be a hard
9 thing to say you've got to have a Ph.D., you've
10 got to be trained in nuclear science, physics,
11 et cetera, or that you've worked at here or
12 there or the other. I'm sorry I didn't get to
13 hear that comment, but I'm sure I would have
14 laughed too.

15 But, anyway, again, what's the
16 purpose of their appointment? Historically, the
17 Governor single-handedly has appointed these
18 folks. We have changed it where, again, the
19 highest bidder didn't get the job. He had to
20 have experience and qualifications. So from the
21 PURC standpoint, we don't pick them; we screen
22 them. We have objective tests. We have, I
23 would say, subjective as well, as I was talking
24 about the earlier ones in terms of how folks
25 interact and how comfortable they are with the

1 subject matter.

2 And like PSC -- I'll kind of
3 mirror to this as well -- is this the problem:
4 Do we have folks, for the last ten years, who
5 have served who have botched the deal? I would
6 suggest to you no less that the PSC folks were
7 qualified than the Santee Cooper members were
8 qualified. would they like to do things
9 differently? In some instances, I'm sure they
10 would. If they knew what we all now know and
11 have learned since this committee was formed,
12 certainly they'd like to do things over again.
13 But in terms of the bottom line, the answer to
14 your question is, there is vetting. I think
15 history proves that is has worked. The Governor
16 has the sole discretion of picking. We have
17 tested them, and, again, save perhaps one, at
18 most two, everyone has been found qualified,
19 sir.

20 CHAIRMAN MASSEY: And I think
21 your point on that -- as I think it's important
22 that everybody understands this -- that the
23 Governor nominates, but then PURC screens, and
24 then they go through judiciary, right, and then
25 it's Senate confirmation. So there's actually

1 pretty significant screening that goes on with
2 the Santee Cooper board members, I guess.

3 SENATOR RANKIN: And let me just
4 throw a little bit of history into this. I know
5 that the U.S. Senate Judiciary is effectively
6 getting rid of the blue slips as a block to
7 judicial nominees. In our body, the analogy to
8 that has been what, in the Senate, has been
9 described as personally obnoxious, someone --
10 any candidate to any appointment -- it had to be
11 that, with a sufficient belief of the Senate at
12 least, that that person was not qualified to
13 serve. I know of only one time where politics
14 got in the way of -- or perhaps initiated the
15 appointment to, but then was blocked by someone,
16 and that was way before this screening
17 committee, PURC, was ever formulated.

18 But the point being, politics can
19 play a role, but it's not just, Here's my guy,
20 or here's my gal; here's who I want. We have
21 taken very seriously, since this whole subject
22 has become acutely in focus, not just V. C.
23 Summer, but the Pee Dee coal-fired plant and
24 then, prior to that, the efforts to sell and/or
25 privatize Santee Cooper.

1 CHAIRMAN SETZLER: Senator from
2 Richland.

3 SENATOR SCOTT: Mr. Chairman, or
4 Judiciary, let me just for a minute, just for
5 the sake of conversation in terms of appointment
6 and who actually sits on that committee, from my
7 review I think Santee Cooper is a \$10-billion
8 organization, which lost \$4.4 billion. Also,
9 being able, with terms of 75 years on the Base
10 Load Review, which simply said to me that that
11 commission should have been further ahead of
12 anybody else, and binding to a deal where Santee
13 Cooper owned 45 percent and then, on the tail
14 end, say now, Staff didn't give me all of what I
15 should have gotten, that's a hard sell. That's
16 just a real hard sell for me.

17 Qualification, like anybody else,
18 needs to be the thing. I'm still not
19 comfortable, now that we've changed up how we're
20 going to look at the PSC commissioners, in
21 looking at the commissioners on this particular
22 board, who's responsible for taxpayers' dollars,
23 and giving them an easy ride because they're
24 appointed by the Governor. They either have the
25 real qualifications, like everybody else who's

1 doing this business, or they're out of business.
2 Now, I don't know what we pay them. What's
3 their salary now?

4 SENATOR RANKIN: It's not -- is
5 it --

6 CHAIRMAN MASSEY: (INDISTINCT)
7 thousand.

8 SENATOR RANKIN: How much is it a
9 year, guys?

10 SENATOR SCOTT: And so that sets
11 a problem because you're getting people who were
12 coming on more as a perk, because of their
13 political affiliation, but at the end of the
14 day, they lost \$4.4 billion of taxpayers' money.
15 And they're also responsible for making a
16 decision to the co-op who --

17 SENATOR HUTTO: (INDISTINCT)
18 taxpayer (INDISTINCT)?

19 SENATOR SCOTT: Customers.
20 Customers are taxpayers. Taxpayers, they're
21 customers. But they lost us money. So I'm not
22 so sure whether or not looking at fixing the one
23 end and the other company who -- when you speak
24 to the co-op, they say, well, we've got all
25 these increases that got passed on back to us

1 from Santee Cooper; we just had to digest it.

2 whether or not -- that's also a
3 system that's completely broke. If we're going
4 to keep Santee Cooper, or if we're going to sell
5 Santee Cooper -- I'm hoping that, in the end, we
6 make that tough decision -- but if we're going
7 to keep Santee Cooper, we probably need to look
8 at a system that actually works and not a board
9 that's a rubber stamp, because what I see now is
10 more of a rubber stamp than anything else.
11 Nobody goes into a deal with 45 percent of the
12 ownership and having very little say over what I
13 can and cannot do in this deal.

14 I mean, to me, that's just not
15 good business. And to sit on the board when a
16 big issue, the biggest private-public
17 partnership comes through, and I'm on the board
18 and don't quite understand all the particulars
19 of it, and after nine years or ten years of this
20 thing, I'm at the tail, and all of a sudden, I'm
21 like everybody else; I really didn't know what
22 was coming. So that's a hard -- that's a real
23 hard sell for me that Santee Cooper itself
24 really needs to be cleaned completely up, get
25 some real qualified persons who's going to

1 handle, whether it's taxpayers' money or
2 customers' money, but have some responsibility
3 to those consumers, because a lot of money's
4 been lost.

5 CHAIRMAN SETZLER: Senator from
6 Dorchester move for -- Senator, before you
7 start, I would share somewhat the Senator from
8 Richland's concern. I don't know that I buy
9 this whole -- well, I know I don't buy this
10 whole argument that we continually heard
11 throughout every hearing, is SCANA was in
12 charge, we didn't have anything to do with it,
13 and it's their fault, or it's Westinghouse's
14 fault. And that's my words and interpretation,
15 not necessarily theirs. But I agree that
16 they've got some fault that they haven't
17 accepted either. Senator from Dorchester.

18 SENATOR RANKIN: Let me just, if
19 I can real quick -- and I'm not trying to rebut
20 either of your points, and my comments, I hope,
21 don't suggest that they would not like a redo on
22 a number of things. My point about -- and I'm
23 not blaming Lonnie Carter. I'm not blaming
24 executive management. But -- or a fact, just as
25 I sat here -- I've heard all this as well --

1 there's no less them than SCANA, than us. Let's
2 not ignore the fact that we can't (BREAK IN
3 AUDIO) a black hat on --

4 CHAIRMAN SETZLER: There's nobody
5 done that, Senator.

6 SENATOR RANKIN: Well, and I'm
7 not saying that you two are. My comments, I
8 don't think -- or hopefully don't suggest that
9 Santee Cooper is without fault or reservation or
10 the likes of wishing for a redo on a number of
11 things, which are colossal, without a doubt, as
12 is the Base Load Review Act, as is SCANA's
13 conduct in not producing to ORS the very thing
14 that could have told us, a year better in
15 advance, the dire straits that we were in, so.

16 CHAIRMAN SETZLER: Senator from
17 Dorchester.

18 SENATOR BENNETT: Thank you, Mr.
19 Chairman. I apologize, before I even get going,
20 if I'm being redundant in some of these comments
21 because I think I feel the way a lot of folks
22 do, and I'm certainly not trying to be
23 provocative here, so I'll just say it this way.
24 I think, from Santee Cooper's board, there are a
25 number of members of that board who I have a

1 great deal of faith and confidence in. And
2 there are a number of people on their board that
3 I am just less familiar with. We'll just leave
4 it at that.

5 Now, that's not to hang that on
6 Santee Cooper because I could make the exact
7 same comments about SCANA's board. The
8 difference is, I have zero control over SCANA's
9 board. But I think it's important -- and
10 Senator from Horry, I certainly understand. I
11 do think, as I've said from the start of this,
12 that there have been massive failures from every
13 party involved in this. But, with that said, if
14 we're going to do a weighted vote of the
15 problems, I think there is more weighted concern
16 towards the entities that were involved in the
17 day-to-day processes of getting this facility
18 built.

19 with that said, I will just
20 reiterate my comments from earlier as with the
21 board and the qualifications for the board, and
22 this may even go further as get further in the
23 afternoon, maybe making some sort of formal
24 recommendation. But I come back to the fact
25 that I just am concerned about the overall

1 energy policy in South Carolina, so whatever we
2 decide for edits or changes or manipulations to
3 the qualifications -- and, certainly, I think
4 with a board that is certainly nominated by the
5 executive office, that's probably where we're
6 going to have the most impact here, is making
7 sure that we have solid qualifications for that
8 screening process. There has to be a mechanism
9 to make sure that those qualifications, going
10 forward, align with our overall energy policy,
11 should those change in the future.

12 CHAIRMAN SETZLER: Okay. Anyone
13 else want to be heard? Well -- I'm sorry.
14 Senator from Fairfield.

15 SENATOR FANNING: Thank you.
16 We're talking about the appointment of these,
17 but they also serve at the pleasure of the
18 Governor, is that correct? Or with recent
19 changes, is it harder for the Governor now to
20 remove after prior governors --

21 CHAIRMAN SETZLER: I think it's
22 for cause. I think he would have to ask for
23 their resignation.

24 SENATOR FANNING: And the reason
25 I ask this is, if we're talking about

1 appointments and their terms, remember, the
2 Governor had to strong-arm Santee Cooper to turn
3 over that Bechtel report. Y'all remember that
4 several months ago. And so (BREAK IN AUDIO)
5 government employees, in a sense, that we had to
6 strong-arm them to get them to turn over
7 information from one public body to the rest of
8 us, and there wasn't really any action that
9 certainly not us, but not even the Governor
10 could take because he couldn't remove them
11 because that would be debatable whether that was
12 cause. And so I just wonder if we shouldn't
13 look at that as well, in terms of the ability to
14 remove for something other than cause,
15 especially if the terms are going to be seven
16 years.

17 CHAIRMAN SETZLER: Senator from
18 Oconee.

19 SENATOR ALEXANDER: well,
20 following up on his last point -- and maybe the
21 Senator from Horry can refresh my memory as to
22 why we're at a seven-year versus maybe a five-
23 or a four-year appointment from that standpoint,
24 and maybe seven is too long for that board.

25 SENATOR RANKIN: I'm not certain,

1 other than the concern ten years ago -- or, in
2 fact, more -- in 2004, when we -- again, y'all
3 correct me on the dates -- but the concern we
4 heard with the fruit basket turnover of the
5 Sanford administration was institutional
6 knowledge. The biggest concern was from the
7 investment -- the credit rating agencies. At
8 the time, a question of whether or not someone
9 with no institutional knowledge or perhaps poor
10 knowledge, Senator from Richland, that you had
11 no consistency and ultimately no stability to
12 that board, and, thus, I think that was an
13 outgrowth of that concern way back.

14 CHAIRMAN SETZLER: All right. I
15 will tell you, the seven years gives me real
16 concern. I've just got to be candid with you.
17 Senator from Fairfield.

18 SENATOR FANNING: And I guess I'm
19 just given heartburn by the fact that these
20 folks sit on a government board and they were
21 reluctant to give us information about a report
22 that they had access to. And you remember the
23 dynamics here was the board chair leaning over
24 to Lonnie saying -- and Lonnie saying, I want to
25 share with -- whether that was true or not. So

1 I was wondering, one, about (BREAK IN AUDIO) --
2 that their board members are required to turn
3 over information to somebody, because those
4 board members had that information. I'm sorry.

5 CHAIRMAN MASSEY: Well, no, to
6 that -- I think that's a very good point.

7 CHAIRMAN SETZLER: I think it's a
8 great point.

9 CHAIRMAN MASSEY: What we
10 discovered, and I think this contributed
11 significantly to that information being released
12 as well, was -- because, if you remember from
13 that hearing when all of us learned about
14 Bechtel -- the Senator from Horry brought it up,
15 and actually there was a motion made for the
16 committee to subpoena that information -- what
17 we learned and what staff learned thereafter is
18 there is a proviso that requires any state
19 entity to disclose anything and everything to
20 the President Pro Tem and to the Speaker of the
21 House upon request, and I think they disclosed
22 it to the Governor based on the constitutional
23 things there.

24 But maybe we need to make that
25 permanent law, as opposed to being just a

1 proviso, that they would have to disclose -- any
2 state, not just Santee Cooper, any state entity
3 would have to disclose because one of the things
4 -- and you hit on this -- but one of the things
5 that really got under my skin a little bit was,
6 I don't know how any state agency, any state
7 entity could claim attorney-client privilege or
8 any type of privilege not to disclose something
9 to the General Assembly. That doesn't make
10 sense to me. If it's something that the General
11 Assembly creates, how could they withhold
12 anything from the General Assembly?

13 So maybe we need to -- now, there
14 may be some things that maybe we shouldn't
15 disclose to the public, if it's a privileged
16 document, right, but having them keep it from
17 legislators seems, to me, to be a real problem
18 going forward. But maybe we should look at
19 doing that, making that permanent law, what's in
20 that proviso, that they would have to disclose
21 it to the leadership of the bodies going
22 forward.

23 CHAIRMAN SETZLER: well, you're
24 going to have to add in a penalty, too, because
25 if there's not a penalty in the proviso, if they

1 don't do it, there's nothing they can do. So
2 you need to add in a penalty likewise with it.
3 Senator from --

4 SENATOR HUTTO: (INDISTINCT)
5 litigation.

6 CHAIRMAN SETZLER: Senator from
7 Georgetown.

8 SENATOR GOLDFINCH: I don't
9 disagree with anything y'all are saying
10 philosophically, but are we missing something
11 with attorney-client privilege that, you know,
12 we're going to box ourselves into a corner here?
13 Does anybody else see that problem?

14 SENATOR HUTTO: I do.

15 CHAIRMAN SETZLER: Yeah, and I
16 think that was part of what was --

17 SENATOR HUTTO: (INDISTINCT) in
18 the middle of litigation, sometimes things just
19 are confidential, and I don't -- disclosing it
20 to somebody outside the legal team is just not a
21 good idea, and you're counting on them to
22 maintain confidentiality or not be subject to
23 FOIA. You can argue that both ways, but do I
24 see a problem? Yeah, I see a problem.

25 CHAIRMAN SETZLER: Senator from

1 Orangeburg, I would tell you my belief -- you
2 ask John Freeman -- that that then breaks the
3 attorney-client privilege once you disclose it
4 to somebody. It is over with. There is no
5 longer any attorney-client privilege, period.

6 CHAIRMAN MASSEY: (INDISTINCT)
7 client.

8 SENATOR RANKIN: But that -- and
9 I love John Freeman. He's as black-and-white as
10 you can get. But let's not ignore the -- and,
11 again, I'm not defending one or the other, but
12 the horns of the dilemma, particularly the
13 Santee Cooper folks and the legal qualm of
14 what's their relationship with the majority
15 party and are they headed to litigation, are
16 they -- certainly, they're not holding hands.
17 They were at polar ends of this room,
18 figuratively and literally.

19 So I don't disagree with you in
20 terms of us needing to get it. I mean, subpoena
21 it. I wanted it because that was illustrative
22 for me and the rest of us. We're going to go
23 down this road again. I dare say it won't be up
24 to this scale, and we can always tweak hereafter
25 as we need to. I don't disagree with the idea

1 and the sense, and not, again -- no bad faith,
2 or perhaps a lot of bad faith from the lean in
3 and the chair -- I recall it. I want to give
4 it. I want y'all to have it. Hemmed in,
5 though, or hamstrung by the legal overhangs to
6 this thing, so.

7 CHAIRMAN SETZLER: Okay. Senator
8 from Richland.

9 SENATOR SCOTT: Mr. Chairman, for
10 some reason -- and I'm just not getting it when
11 we get to Santee Cooper -- we still will lay
12 idly by and let them still run an organization
13 based upon the way they used to run it. I just
14 can't get past \$4.4 billion that got lost, and
15 what I get, it's a commission who's appointed by
16 the governor, qualifications are not a big
17 issue, and maybe the part-timers need to be real
18 full-timers, and maybe those appointments --
19 since it's no longer just a small organization
20 anymore. It's a real business, and we start
21 running Santee Cooper as a business, and maybe
22 those commissioners need to be treated like
23 other commissioners, and it needs to come back
24 to the General Assembly to make those real tough
25 decisions in terms of who goes on those boards

1 so we actually put some folk on the board who
2 understand what's going on and not some
3 political folk who sit there for 10,000 or
4 24,000 dollars, but actually help to run this
5 organization.

6 Believe it or not, I know it's
7 kind of hard for us to understand. They lost
8 \$4.4 billion, and I still have not heard anybody
9 in this room, other than the Senator from
10 Lexington, talk about at least the issue. But
11 this thing has got to be overhauled. It's not
12 working. It's not functioning properly when you
13 lose that kind of money and give away that much
14 control and you can't even get yourself out of
15 the deal to be able to even sell part of it out
16 without an approval. And so what I'm hearing is
17 the administration is running it and the board
18 is not getting any information, but that's not
19 going to work. Thank you, Mr. Chairman.

20 CHAIRMAN SETZLER: Okay, Senator
21 from Georgetown, before I comment, did you have
22 something you wanted --

23 SENATOR GOLDFINCH: well, I was
24 just sort of trying to think through the
25 process. Is there a way -- I'm going to need

1 some other legal analysis here -- but is there a
2 way for us to skin this cat from the back end,
3 from the contracting with a state entity end,
4 whatever enabling act that might be, BLRA in
5 this case, but contracting with a state agency,
6 you either give up your privacy right, or you,
7 or you, or you -- I don't know. I'm running
8 into a wall there. But at some point, you have
9 a duty to disclose something upon the
10 contracting with the state agency.

11 Now, maybe we have a way to keep
12 that private, but at least they know in the
13 beginning, and we don't end up in this quandary
14 of whether or not we have an attorney-client
15 privilege and whether or not we have to subpoena
16 something. I mean, it's there from the
17 beginning when you contract with -- I mean, the
18 duty is there from the beginning. Does anybody
19 have any thoughts on that?

20 CHAIRMAN MASSEY: I'll just add,
21 if it were not for that proviso, we would not
22 have gotten Bechtel. Right? Even if we had
23 issued a subpoena, they would have claimed a
24 privilege. If it were not for that proviso, we
25 wouldn't have seen Bechtel.

1 SENATOR GOLDFINCH: And I don't
2 disagree with that. My point is, they didn't
3 agree to that, though, right? I mean, they
4 didn't want to give it. If we require in
5 statute that it's given because in lieu -- not
6 in lieu, but as a condition/precedent to
7 contracting with state agency, then you know
8 what your contracted going into the deal. You
9 know that this is part of the deal going into
10 the deal. It's not like we've passed a proviso
11 post deal that now is either unconstitutional or
12 illegal or unethical or boxes them into a
13 corner.

14 CHAIRMAN SETZLER: Senator from
15 Georgetown, I think you make a valid point that
16 needs to be considered by staff as they draft it
17 and by Judiciary when it gets to them, if that's
18 okay with the committee.

19 CHAIRMAN MASSEY: Get some more
20 in-depth analysis.

21 CHAIRMAN SETZLER: Yeah. Yeah.
22 I want to go back from the Senator from Richland
23 -- and I may be the only one. If I am, I can
24 introduce legislation by myself. But I have a
25 real concern with the seven-year term. I mean,

1 we just talked about a PS -- and these folks set
2 rates. They approve rates, and they've got a
3 seven-year term, and the Public Service
4 Commission's got a four-year term. You know, so
5 I think that term ought to be reduced. Senator
6 from Orangeburg.

7 SENATOR HUTTO: Are you telling
8 me then that you think that we should
9 politically look over their shoulder and, if we
10 don't like their rates, take them off the board?

11 CHAIRMAN SETZLER: No, sir, I'm
12 not saying that. But I'm thinking seven years
13 -- I can tell you this. From my perspective,
14 when they've got three --

15 UNIDENTIFIED SPEAKER:
16 (INDISTINCT)

17 CHAIRMAN SETZLER: When they've
18 got three retirement systems and have yet to
19 repeal the other two, I do think we need to be
20 looking over their shoulder, yeah.

21 SENATOR HUTTO: On their rates?

22 CHAIRMAN SETZLER: No, not their
23 rates.

24 SENATOR HUTTO: I mean, I think
25 if we want to oversee their rates, then you put

1 them under PSC, not under the General Assembly.

2 CHAIRMAN SETZLER: I agree with
3 that.

4 SENATOR HUTTO: Well, so, you
5 know, (BREAK IN AUDIO) --

6 CHAIRMAN SETZLER: No, sir, all
7 I'm saying is --

8 SENATOR HUTTO: What's the
9 rationale for (INDISTINCT) --

10 CHAIRMAN SETZLER: Because PSC's
11 four years; we're four years; a lot of boards
12 and commissions are four years. Why are they
13 seven years and nobody else is, is my point.

14 SENATOR HUTTO: I would be
15 inclined to go the other way and make the others
16 longer, too, just to insulate them from
17 (INDISTINCT) --

18 CHAIRMAN SETZLER: That's just a
19 difference in opinion.

20 SENATOR HUTTO: All right.

21 CHAIRMAN MASSEY: Senator from
22 Williamsburg had a point.

23 CHAIRMAN SETZLER: Senator from
24 Williamsburg.

25 SENATOR SAAB: Thank you, Mr.

1 Chairman. Yeah, I just wanted to sort of chime
2 in on the privilege discussion. You know, I
3 think it's appropriate for us to introduce
4 legislation that requires it to be turned over,
5 but I don't believe that trumps attorney-client
6 privilege. I think ultimately that's a court
7 question, and one would hope, you know, that we
8 don't run into situations where the two very
9 important principles collide. But I would not
10 be in favor of a system that interferes with
11 attorney-client privilege. I mean, that
12 privilege is real, and it's there for a reason.

13 But I do think that, to the
14 extent that there's a system whereby, when the
15 two principles collide, we've got an arbiter
16 that helps us to preserve both systems, then I'm
17 comfortable with that. But I would never be in
18 favor of creating a law that trumps attorney-
19 client privilege. I wouldn't do it. The
20 principle is too important to -- I mean, it's
21 one of the bedrocks of our democracy. No, no.

22 CHAIRMAN MASSEY: Are you not the
23 client?

24 SENATOR SAAB: Pardon?

25 CHAIRMAN MASSEY: Are you not the

1 client?

2 SENATOR SAAB: well, I could be.

3 CHAIRMAN MASSEY: Right, I mean,
4 if it's a state entity, are you not, arguably,
5 the client? I mean, now, maybe there should be
6 some prohibitions on us disclosing it or the
7 leadership disclosing it or whatever, but it
8 seems to me that the entity that creates the
9 state agency is arguably the client as well.

10 SENATOR SAAB: And I think that's
11 an excellent point.

12 CHAIRMAN MASSEY: I wouldn't
13 advocate that it be released to everybody
14 either. I just didn't like the -- I mean, and I
15 think we can all agree -- and I apologize for
16 (INDISTINCT), but I think --

17 SENATOR SAAB: No, no, I
18 appreciate the discussion.

19 CHAIRMAN MASSEY: I think we can
20 all agree that the content of the Bechtel report
21 was extremely important --

22 SENATOR SAAB: Absolutely.

23 CHAIRMAN MASSEY: -- to the whole
24 conversation, and if it were not for that
25 proviso, I don't know that we would have gotten

1 it. And, now, we can make an argument about
2 whether those things should have been disclosed
3 to the public and especially in the manner in
4 which it happened, because I didn't like the way
5 that it happened, but it does seem to me that,
6 arguably, that the General Assembly is a client
7 in that regard.

8 SENATOR SAAB: And I think that's
9 an important consideration, and I appreciate the
10 fact that you pointed it out. So then the
11 question is what is information that's
12 accessible to the public, and so, you know, I
13 think -- and, again, I appreciate the exchange
14 because I think that presents an opportunity for
15 us to create certain safeguards such that it's
16 not thrown out into the public. So, yeah, but I
17 think it's a whole lot more complex than just
18 the notion of, okay, the privilege is just
19 something that does not apply.

20 CHAIRMAN SETZLER: Yes, sir?

21 UNIDENTIFIED SPEAKER: well --

22 CHAIRMAN SETZLER: Senator.

23 SENATOR FANNING: I also share
24 the concern that we are not us; I mean that
25 Santee Cooper was created by us and exists as an

1 arm of us, and so I think that makes it
2 different. Now, the earlier point that might
3 even play to SCANA, it would be nice to be able
4 to -- for folks to know up front that they are
5 having to withhold. But this is a government
6 entity that we are responsible for, and I assume
7 we're going to talk later about their ability to
8 incur debt without going to somebody, and
9 forgive me for introducing it now, but the point
10 being is they can get us in trouble because they
11 can incur 80 percent of their debt and we can't
12 do anything about it and they can have knowledge
13 of a report while they're incurring more debt.

14 And we are them. We are the
15 client, which brings us to the second point,
16 getting to the seven years, and the Senator from
17 Orangeburg asking about kind of looking over
18 their shoulder. What if we have seen that, for
19 seven years, they have incurred more debt and
20 more debt and more debt and more debt? And
21 that's not a cause thing to remove them, so we
22 don't have any cause to remove them. But
23 philosophically, they're moving into something
24 that could create a danger for the fiscal
25 stability.

1 Or to go back to the Senator's
2 point earlier about an energy policy, we put
3 them on there because they bring something with
4 regards to coal because that's where we're
5 headed right now. But seven years from now,
6 they're still on the board, and maybe our energy
7 policy has changed, or maybe we're looking at
8 something and we need some nuclear expertise on
9 that side. I worry about the seven years, and I
10 worry also about the differentiation of we and
11 us.

12 CHAIRMAN SETZLER: All right.
13 we're about to wear out this attorney-client.
14 Senator from Georgetown.

15 SENATOR GOLDFINCH: All right,
16 this, and then I'm done. I think you could make
17 it where the disclosure of otherwise
18 confidential information pursuant to a statute
19 -- you know, that doesn't destroy
20 confidentiality. Of course, you've got to make
21 the information confidential, but, I mean, you
22 could just go with it like that, and you don't
23 have to worry about who's the client and who's
24 not.

25 CHAIRMAN SETZLER: Okay, as I

1 understand it, where we are is we've asked staff
2 to include the same type language that we did
3 with PSC, correct?

4 MS. ANDERSON: For the Commission
5 members?

6 CHAIRMAN SETZLER: I mean ORS and
7 SCANA. They're going to all have to do the same
8 thing, right?

9 MS. ANDERSON: In regards to?

10 UNIDENTIFIED SPEAKER:

11 (INDISTINCT)

12 CHAIRMAN SETZLER: With the
13 information.

14 SENATOR FANNING: Oh,

15 (INDISTINCT).

16 CHAIRMAN SETZLER: Yeah.

17 SENATOR FANNING: Yes, yes.

18 CHAIRMAN SETZLER: Okay?

19 UNIDENTIFIED SPEAKER: I think
20 they all live under the same rules.

21 CHAIRMAN SETZLER: Correct.

22 Okay, now, we've got a difference of opinion on
23 the terms of the office for seven years.

24 Anybody want to do anything, or want to leave it
25 at seven?

1 SENATOR SCOTT: I move we reduce
2 it to five years.

3 CHAIRMAN SETZLER: Motion to
4 reduce to five. Is there a second?

5 SENATOR FANNING: Second.

6 CHAIRMAN SETZLER: Second by who?
7 Senator from Fairfield. Any other discussion?

8 UNIDENTIFIED SPEAKER:

9 (INDISTINCT)

10 CHAIRMAN SETZLER: I'm sorry?

11 UNIDENTIFIED SPEAKER: I thought
12 the chairman (INDISTINCT).

13 CHAIRMAN MASSEY: which chairman?
14 which chairman?

15 CHAIRMAN SETZLER: Okay, all --
16 yes, Senator from Georgetown.

17 SENATOR GOLDFINCH: I'm sorry.
18 Just a quick question. We got into this a
19 little bit. Then we jumped right back off of
20 it. Was there any clear discussion about
21 whether or not this is going to affect their
22 bonding or --

23 SENATOR RANKIN: That's, in fact,
24 the only reservation I have for discussion
25 purposes, and I'm happy to do whatever on this,

1 but is there some credit rating sense that
2 warrants seven, six, five, whatever number?
3 That would be the only thing I would want to get
4 information on. I haven't heard it in years
5 because we haven't talked about this.

6 CHAIRMAN MASSEY: I think on that
7 point -- again, what we're doing is we're just
8 recommending legislation to go through the
9 subcommittee process. That seems to me to be
10 something that the subcommittee ought to --

11 CHAIRMAN SETZLER: Correct.

12 CHAIRMAN MASSEY: -- ought to
13 listen to. My expectation is that (BREAK IN
14 AUDIO) apocalyptic warnings on any type of
15 change that you do, right, but I think that's
16 something that the subcommittee ought to explore
17 because you don't want to jeopardize that.

18 SENATOR ALEXANDER: well -- and
19 if I could, to that point -- and like you say,
20 it's a recommendation. We can get guidance from
21 that standpoint. But, again, there are other
22 entities that are in the arena of the rating
23 agencies that are probably at four years, much
24 less five. So I think if we went with the five,
25 we certainly would be within that parameter.

1 But I would support the five based on making
2 sure that, from a bonding rating agency, we
3 don't have a problem from that standpoint.

4 CHAIRMAN SETZLER: Okay.

5 SENATOR BENNETT: Mr. Chair?

6 CHAIRMAN SETZLER: Senator from
7 Williamsburg had already raised his hand before
8 I saw the Senator from Dorchester.

9 SENATOR SAAB: But I just want to
10 state for the record, just as you are able to
11 read the Senator from Lancaster's mind and know
12 that he had something on it, I can read my
13 chairman's mind in the same way.

14 CHAIRMAN SETZLER: Senator from
15 Dorchester.

16 SENATOR RANKIN: Not a healthy
17 place to be.

18 UNIDENTIFIED SPEAKER: In your
19 mind?

20 SENATOR BENNETT: Mr. Chairman, I
21 was just going to say, if there's a question or
22 concern about bond ratings, I believe that
23 toothpaste is out of the tube.

24 UNIDENTIFIED SPEAKER: Yeah.

25 CHAIRMAN MASSEY: That's true.

1 CHAIRMAN SETZLER: All right, all
2 those in favor of going from seven to five,
3 please raise your right hand. All those
4 opposed? Looks like we're going to five years,
5 okay.

6 CHAIRMAN MASSEY: And, Senator,
7 just -- I think -- I gather that there's no real
8 interest in changing the statutory
9 qualifications for the board (BREAK IN AUDIO).
10 Is that --

11 CHAIRMAN SETZLER: That's what I
12 heard.

13 CHAIRMAN MASSEY: Is that
14 correct?

15 CHAIRMAN SETZLER: That's what I
16 heard. Oh, Senator from Dorchester.

17 SENATOR BENNETT: I'm sorry.
18 That, that -- changing them is not something
19 we're open to?

20 CHAIRMAN SETZLER: No, we are if
21 you --

22 SENATOR BENNETT: Oh, no. Yeah,
23 okay. I just wanted to make sure.

24 CHAIRMAN SETZLER: All right,
25 well, then the floor is yours because nobody's

1 proposed the changes.

2 SENATOR BENNETT: No, I -- again,
3 I just come back to this overriding concern of
4 the energy policy, and I think we have to look
5 at that. I would like for that -- if we're
6 instructing -- instructing is probably a poor
7 word. If we're recommending to subcommittees to
8 dig deeper into these issues, I think that
9 definitely should be on the table.

10 CHAIRMAN MASSEY: As a
11 qualification for a Santee Cooper board member?

12 SENATOR BENNETT: Correct.

13 SENATOR SCOTT: Mr. Chairman?

14 SENATOR RANKIN: When you look at
15 -- if I may, just to that point -- and Kate
16 (PHONETIC) and I have -- she schooled me here.
17 It was actually 2015 that the energy department,
18 which -- or office -- which was previously under
19 the Governor's Office, but before that it was
20 under the Budget and Control Board, since 2015
21 it has been subsumed by ORS. There's an annual
22 report of all things energy in South Carolina.
23 I don't think we presently test either the PSC
24 or the Santee Cooper nominees on that. That's
25 certainly something that you could require as

1 mandatory reading and perhaps testing on that
2 front. I mean, I don't know -- unless you're
3 talking about creating some other body to
4 distill energy information about our state,
5 newest technology, oldest, I don't know what,
6 otherwise, you're talking about. There is a
7 group that gathers it, presents it, and reports
8 it, and --

9 SENATOR BENNETT: Who's that
10 group?

11 SENATOR RANKIN: The Office of
12 Energy -- or Energy -- what --

13 FEMALE SPEAKER: The South
14 Carolina Energy Office.

15 SENATOR BENNETT: South Carolina
16 Energy?

17 SENATOR RANKIN: Yeah.

18 SENATOR SCOTT: Mr. Chairman?
19 Mr. Chairman?

20 CHAIRMAN SETZLER: Senator from
21 Richland.

22 SENATOR SCOTT: We looked at
23 qualification for the PSC commission. It was
24 really kind of broad and loose: accounting,
25 economics, and with some other qualifications.

1 Even if we used those same qualifications and we
2 didn't do the testing, it still gave the
3 political process at least some kind of
4 flexibility. I am more interested in attracting
5 businesspeople to go on that commission and
6 begin to run Santee Cooper like a business.
7 I've just still got heartburn with all of the --
8 the Base Load Review Act, the loss of the money,
9 the major contract, and all we get is, I'm not
10 sure whether or not the information is floating
11 back down to the board. Well, it should float
12 to the board because the board should have been
13 the one to vote to approve the contract, to have
14 information to what they were going into.

15 At least a little bit more
16 qualification -- it still leaves a political
17 flavor if the Governor wants to appoint them.
18 What I really want is, really, for them to come
19 out of the legislature. But just to kind of be
20 middle of the road with it, at least give them
21 some kind of qualification to go on that board
22 and not just anybody can go on that board; with
23 some kind of understanding of what's going on in
24 that process.

25 SENATOR RANKIN: And I would

1 submit to you that there is more than just faint
2 or light acquaintance with all these things.
3 And if you look at the particular board members
4 again that we screened, these are not
5 lightweights in terms of past work, past
6 business, past successes in their community, not
7 just from a good old boy/good old gal, I like
8 this person; I'm going to nominate them, so.

9 SENATOR SCOTT: Then I'm really
10 confused now even more. When I see the one,
11 two, three which is a no-no in business and they
12 violate all of them -- unless there was a little
13 bit more politics going on at the time when
14 these things actually occurred -- I mean,
15 because there are just some things in this thing
16 that should have gotten caught.

17 SENATOR RANKIN: Well, and no
18 disrespect, but --

19 SENATOR SCOTT: That's okay.

20 SENATOR RANKIN: -- by the same
21 token that you and I voted for the Base Load
22 Review Act, the board members of the Santee
23 Cooper board, the Public Service Commission,
24 with the facts that they knew at the time, as we
25 knew, supported this.

1 SENATOR SCOTT: I understand, but
2 you and I didn't vote on --

3 SENATOR RANKIN: We could get
4 thrown out of office --

5 SENATOR SCOTT: I understand.

6 SENATOR RANKIN: -- and the
7 Governor can remove these folks from office --

8 SENATOR SCOTT: I understand, but
9 we --

10 SENATOR RANKIN: -- or they would
11 not pass the test.

12 SENATOR SCOTT: Right. But you
13 and I were not there to vote to spend \$4.5
14 billion, and you and I were not there when the
15 contract agreement came between the private
16 sector and the public sector.

17 SENATOR RANKIN: But we were here
18 to vote for the Base Load Review Act.

19 SENATOR SCOTT: I understand that
20 that starts the process.

21 SENATOR RANKIN: And we were
22 represented facts that, likewise, these boards
23 -- Santee Cooper, SCANA -- their board of
24 directors all went into this --

25 SENATOR SCOTT: Yeah, but you and

1 I --

2 SENATOR RANKIN: You're not
3 playing Monday morning quarterback without us
4 having some skin in this game. You're
5 (INDISTINCT) --

6 SENATOR SCOTT: And, listen, I'm
7 not running away from that.

8 SENATOR RANKIN: You can't blame
9 them (INDISTINCT).

10 SENATOR SCOTT: I'm not running
11 away from that. What I'm just simply saying,
12 there are some things, after ten years of doing
13 the same thing repetitiously, over and over
14 again, that I would have some kind of knowledge
15 of what was actually going on. And from what
16 I'm getting, really that did not occur. It
17 appeared that they did not have knowledge of it,
18 and it's not one contract that got signed. It
19 was multiple contracts that got signed.

20 CHAIRMAN MASSEY: Can I jump in
21 just to the qualification stuff?

22 CHAIRMAN SETZLER: Well, I've got
23 the Senator from Oconee wanting to be heard.

24 CHAIRMAN MASSEY: I just wanted
25 to point out what the qualification requirements

1 are. If you look in 58-31-20, it does say -- I
2 mean, it says specifically, Two of the directors
3 -- there are 12. Two of them have to have
4 substantial work experience within the
5 operations of electric cooperatives or
6 substantial experience on an electric
7 cooperative board.

8 And then you get down, Each
9 member must possess abilities and experience
10 that are generally found among directors of
11 energy utilities that allow him to make valuable
12 contributions to the conduct of the authority's
13 business. These include a general knowledge of
14 the history, purpose, and operations of Santee
15 Cooper and the responsibilities of being a
16 director, the ability to interpret legal and
17 financial documents and information so as to
18 further the activities and affairs of Santee
19 Cooper; with the assistance of counsel, the
20 ability to understand and apply federal and
21 state laws, rules, and those things as they
22 relate to the activities of Santee Cooper; and
23 with the assistance of counsel, the ability to
24 understand and apply judicial decisions as they
25 relate to the activities and affairs of Santee

1 Cooper.

2 SENATOR HUTTO: You just
3 described (INDISTINCT).

4 CHAIRMAN MASSEY: They're fairly
5 general, but I will say again -- I mean, and I'm
6 not opposed to strengthening them. I'm just
7 making the point that, with the PURC review and
8 the Judiciary Committee review and the -- and
9 this gets to the Senator from Lexington's
10 earlier point. That is, if we're doing our job
11 and asking the questions and screening these
12 people, then we ought to be able to get
13 qualified people out of that list. But, I mean,
14 I'm not opposed to making them more specific. I
15 just wanted to read what they were.

16 CHAIRMAN SETZLER: I think what I
17 heard the Senator from Richland trying to
18 propose was to incorporate what the same
19 qualifications were for the PSC. Is that not
20 what -- in generalities. Not a test or
21 anything, but to broaden these. But he hasn't
22 made that in the form of a motion. Senator from
23 Fairfield.

24 SENATOR FANNING: And I want to
25 get back to the Senator's point about the energy

1 policy. I don't think that we don't have people
2 that can't take a test. That's a double
3 negative, but you know what I'm saying is I
4 don't feel like we're not getting people that
5 can't past tests in meeting these
6 qualifications.

7 If you look at what's happened in
8 Georgia, one of the differences between them and
9 their finishing theirs and not ours is they had
10 people in places that had vast amounts of
11 experience with nuclear power on their board,
12 and that made it easier for them because they
13 had a context of knowledge to work with. And
14 I'm not saying we go that direction. I think
15 the Senator's point, being if we have an energy
16 plan and part of our qualifications in the
17 screening is to make sure that we're appointing
18 members with some experience -- not their
19 knowledge of basic powers (INDISTINCT), but some
20 experience that match where South Carolina is
21 headed in the future, we might have board
22 members that are better prepared for what our
23 future crisis is.

24 CHAIRMAN SETZLER: Senator from
25 Dorchester.

1 SENATOR BENNETT: Mr. Chair --

2 CHAIRMAN SETZLER: If one of you
3 will just put it in the form of a motion

4 (INDISTINCT) --

5 SENATOR BENNETT: Well, if, if --

6 CHAIRMAN SETZLER: -- include it,
7 we'll be all right.

8 SENATOR BENNETT: Yes, sir. If I
9 could ask this -- I understand that it's your
10 intention at some point to break for lunch. If
11 we could carry this over and let me speak with
12 staff during lunch, I may very well be able to
13 give you --

14 CHAIRMAN SETZLER: Okay.

15 SENATOR BENNETT: -- what you
16 want, which is a specific motion.

17 SENATOR RANKIN: Well, why don't
18 we just go -- why don't we just do -- we're all
19 in favor of some heightened qualification,
20 correct?

21 SENATOR BENNETT: Correct.

22 CHAIRMAN SETZLER: I think that's
23 what --

24 SENATOR BENNETT: And I think --

25 SENATOR RANKIN: (INDISTINCT) and

1 I make that motion.

2 SENATOR BENNETT: And in my mind,
3 it needs to be linked to this energy plan. Now,
4 if your contention is that we have a written
5 energy policy plan --

6 SENATOR RANKIN: (INDISTINCT)

7 SENATOR BENNETT: That's right.
8 I'm going to read it. And if that falls in
9 line, that's fine with me. My guess is it will
10 be another motion to further enhance that energy
11 plan.

12 CHAIRMAN SETZLER: And I think
13 the Senator from Horry's motion is including
14 both yours and the Senator from Richland's
15 ideas, if I'm understanding correctly. Do I
16 have a second?

17 UNIDENTIFIED SPEAKER: Second.

18 CHAIRMAN SETZLER: Do I have any
19 discussion? All those in favor, say aye.

20 (COMMITTEE MEMBERS AFFIRM)

21 CHAIRMAN SETZLER: All opposed,
22 no, and the ayes have it. All right, next item.

23 CHAIRMAN MASSEY: All right. Mr.
24 Chairman, let me try a couple of other fairly
25 quick things.

1 CHAIRMAN SETZLER: Okay.

2 CHAIRMAN MASSEY: The first one
3 is -- and it's probably not going to be any
4 surprise who asked for this one, but that is to
5 abolish all the retirement systems at Santee
6 Cooper other than the state retirement system.

7 CHAIRMAN SETZLER: If nobody else
8 wants to do that, I'll do it on my own.

9 UNIDENTIFIED SPEAKER: Second.

10 CHAIRMAN MASSEY: (INDISTINCT)

11 UNIDENTIFIED SPEAKER: Second.

12 CHAIRMAN SETZLER: Any

13 discussion?

14 UNIDENTIFIED SPEAKER: I second.

15 CHAIRMAN SETZLER: Second. Okay.

16 SENATOR GOLDFINCH: From when?

17 Sorry; can I ask a question?

18 CHAIRMAN SETZLER: It would have
19 to be going forward. I don't think you can --
20 it's going to have to be what --

21 SENATOR GOLDFINCH: You're
22 talking about new hires?

23 CHAIRMAN SETZLER: -- what
24 coincides with the terms of their plans. Yes,
25 sir, Senator from Dorchester.

1 SENATOR BENNETT: Mr. Chairman,
2 the only point that I would make is, from
3 someone who has sat in for two years on pension
4 reform, I recognize that there is much devil and
5 many details. So while I may not necessarily
6 oppose this moving forward, I would probably not
7 support it yet.

8 CHAIRMAN SETZLER: I understand.

9 SENATOR ALEXANDER: Mr. Chairman?

10 CHAIRMAN SETZLER: Yes, sir.

11 SENATOR ALEXANDER: Maybe if we
12 could say there would be no one added to either
13 one of the other current plans.

14 CHAIRMAN SETZLER: The same
15 thing. Abolish it.

16 SENATOR ALEXANDER: Yeah, that's
17 why I'm saying it. I meant -- the point --
18 yeah, they'd be abolishing it.

19 CHAIRMAN SETZLER: Yeah.

20 SENATOR ALEXANDER: So, I mean,
21 that's -- in other words, we want it to stop.

22 CHAIRMAN SETZLER: Correct.

23 (INDISTINCT)

24 CHAIRMAN SETZLER: Okay.

25 CHAIRMAN MASSEY: And I think

1 this is something, again, that the subcommittee
2 -- and this is probably likely going to be a
3 finance subcommittee, I suppose -- would have to
4 look at and make sure that we don't screw that
5 up.

6 CHAIRMAN SETZLER: Anybody got
7 any other (BREAK IN AUDIO)? Okay.

8 SENATOR HUTTO: I mean, sometimes
9 you've got to attract quality candidates to do a
10 job, and they may just say, Unless I can get a
11 401(k), I don't want to do it. I mean, but I --

12 CHAIRMAN MASSEY: That's
13 available to state employees.

14 CHAIRMAN SETZLER: That's
15 available.

16 SENATOR HUTTO: You're -- well,
17 the way I heard you say it is they've got to be
18 a state retiree and that's it. That's what I
19 heard you say.

20 CHAIRMAN SETZLER: Senator, I --
21 (INDISTINCT)

22 SENATOR ALEXANDER: Mr. Chairman?
23 Under -- state employees now, they can choose
24 the optional plan or the state retirement plan.
25 So they currently have that ability to go into a

1 401. You see a lot of that in higher education.
2 They'll choose -- because it's got portability,
3 they'll go with a 401 versus the state defined
4 benefits plan from that standpoint.

5 CHAIRMAN SETZLER: Senator --

6 SENATOR ALEXANDER: So that would
7 be consistent.

8 CHAIRMAN SETZLER: Senator, let
9 me be very clear. I heard Lonnie Carter sit
10 right there and testify they had two other
11 retirement plans, one with 8 people in it that
12 he chose the 8 people, and they had one with 22
13 people in it, I believe, that he chose those 22
14 people. There is nowhere else in state
15 government -- and I'm not going to support that.
16 If you want to, that's fine. I want to end it,
17 period.

18 SENATOR RANKIN: For those 22
19 people or for all the rank and file?

20 CHAIRMAN SETZLER: No, for the
21 future, Senator.

22 SENATOR RANKIN: All rank-and-
23 file employees (INDISTINCT) --

24 CHAIRMAN SETZLER: In the future.

25 SENATOR GOLDFINCH: Just a quick

1 question. So I agree with you in philosophy
2 again, but are they going to turn around and
3 make those salaries compensable? Are the
4 salaries now going to turn into the retirement
5 plan?

6 UNIDENTIFIED SPEAKER: That's
7 what I --

8 SENATOR GOLDFINCH: Are we going
9 to be shooting ourselves into the foot by doing
10 this? Are they going to make Lonnie's salary a
11 million dollars next year because he doesn't
12 have a retirement plan, and then what do we do?

13 CHAIRMAN SETZLER: Senator, you
14 make up your choice. I --

15 SENATOR GOLDFINCH: I know.

16 CHAIRMAN SETZLER: Whatever they
17 do, I'm not for them having two other retirement
18 plans for 22 people.

19 SENATOR GOLDFINCH: I don't
20 disagree with that.

21 CHAIRMAN SETZLER: Okay.

22 SENATOR GOLDFINCH: At all.

23 CHAIRMAN SETZLER: Senator from
24 Ocone.

25 SENATOR ALEXANDER: Well, I was

1 just following up on that. I mean, to me, that
2 would be a more appropriate way for them to run
3 their business, is to compensate them based on
4 those services rather than giving them a
5 lucrative retirement system that's going to pay
6 down the road from that standpoint. So I think
7 that's the deci -- and that's a business
8 decision. If they bring value to them in doing
9 their work today, they ought to be compensated
10 for that and not that future retirement.

11 SENATOR GOLDFINCH: That seems a
12 lot more transparent, certainly.

13 CHAIRMAN SETZLER: Any other
14 discussion? All those in favor, raise your
15 right hand. All opposed? The ayes have it.
16 All right, Senator from Edgefield.

17 CHAIRMAN MASSEY: All right, Mr.
18 Chairman, the next three things that we have on
19 our bullet points that deal with Santee Cooper
20 is -- one of them to be to put Santee Cooper
21 under the PSC. The other one deals with
22 restricting their ability to borrow, and there's
23 a subset of abolishing the Santee Cooper
24 advisory board if you put them under the PSC. I
25 think those things are probably going to take a

1 little while. I would suggest that we break for
2 lunch for a little bit and then come back and
3 reengage on those issues.

4 UNIDENTIFIED SPEAKER: Some of --

5 CHAIRMAN SETZLER: We will recess
6 until 1:35.

7 02:14:45

8 (END OF PART ONE)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

00:00:01

CHAIRMAN SETZLER: If the Senator from Edgefield's here, I know the Senator from Horry's back because they went to lunch together, the three of you, because I saw you. All right, Senator from Edgefield.

CHAIRMAN MASSEY: All right, so continuing on with Santee Cooper, a couple of more issues that we had suggestions on. The first one would be to restrict or place some type of restrictions on Santee Cooper's ability to borrow, and the suggestions we had were either set some type of a limit, a debt limit, a cap limit, or to have additional oversight in addition to just the board, whether that be JBRC, potentially, or some other entity to look at that. So those were a couple of the suggestions, so I throw those out there for comments.

CHAIRMAN SETZLER: Senator from Orangeburg.

SENATOR HUTTO: My take on them operating as a public utility company is that they do have to have a certain amount of autonomy that's divorced from the legislature,

1 or otherwise it just creates a governance issue
2 that, if they think that we are going to
3 micromanage every decision they make, then why
4 don't we just have members of the legislature
5 serve on the board?

6 To me, they have to have
7 stability in their marketplace, and the way that
8 these public utilities have been set up over
9 time have been on the Santee Cooper model. And
10 to me, for the most part, the model has worked
11 over decades, and for us to say that there's
12 this one issue now and we're going to
13 restructure the entire setup of Santee Cooper is
14 reactionary to a fault. So they've got the
15 ability -- if we don't like what they're doing,
16 then you appoint new board members at the next
17 time, but I don't think you subject board
18 decisions to a second level of approval because,
19 at that point in time, if we're going to approve
20 it, why don't we just say we're going to run it?

21 And that's my take on it. It's a
22 unique entity in that it's a public utility, but
23 you set it up that way; you trust the people
24 that you appoint; if they don't do a good job,
25 we replace them. But I don't think the answer

1 to letting them be autonomous and operate the
2 way most boards operate is to say that we're
3 going to have a level of legislative oversight
4 that turns into the de facto decision. So I
5 understand why you're raising the question, but
6 I don't think that that adds -- it's not the
7 model of a public utility to have that much
8 legislative control.

9 CHAIRMAN SETZLER: Senator from
10 Richland, then the Senator from Oconee.

11 SENATOR SCOTT: I think one of
12 the things that I heard that came from the co-op
13 was the fact that Santee Cooper were doing a
14 whole lot of things and just passing the cost
15 back on to them. I never could figure out why
16 the model never included some members from the
17 co-op to actually serve on that board. Since
18 the co-op has (BREAK IN AUDIO) percent of the
19 liability, it looks like they would have had
20 some kind of input into the decision-making
21 process.

22 I'm more interested in seeing
23 that board move from being a 12-member board
24 maybe down to a 7-member board and three of the
25 12 members are co-op, come out of the co-op,

1 cooperatives. And with that, I think you'll
2 find a lot more control as relates to bond
3 indebtedness as well as spending. I think
4 you'll find a lot of that because those persons,
5 again, will be answering to the group who has to
6 pay the bill. And I just think that's a better
7 model.

8 But the other part I'm concerned
9 about, if we change in midstream, is whether or
10 not it's going to have an impact on refinancing
11 of bonds in the original agreement, and I don't
12 know what's in the agreement they had for those
13 who have to approve the bond for Santee Cooper.
14 And so it's those kinds of questions you have to
15 answer, but I don't think there's a problem in
16 reducing the board, and I don't think there's a
17 problem in allowing members of the cooperatives
18 to actually serve on that board as well.

19 CHAIRMAN SETZLER: Okay. Senator
20 from Oconee.

21 SENATOR ALEXANDER: Thank you,
22 and I don't disagree with -- I hear what the
23 Senator from Orangeburg is saying on those, but
24 it's my understanding those private utilities,
25 the IOUs, investor-owned utilities, normally

1 don't go above 50 percent in debt as a general
2 rule. That's --

3 SENATOR HUTTO: Unless they set a
4 limit.

5 SENATOR ALEXANDER: And then, but
6 at the same time, I don't think it would hurt to
7 have another set of eyes at least look because,
8 at the end of the day, if the bonds that have
9 been presented out there now are not dealt with,
10 I mean, it does impact the State of South
11 Carolina. So I don't see that there's a reason
12 not to.

13 I think normally on a yearly
14 basis, they normally present bonds two times a
15 year, maybe in the spring and the fall, if my
16 memory serves me correct, at Santee Cooper. So
17 it's one of those challenges we've always had
18 with them kind of being quasi -- they're public
19 sometime, and they're private sometime, and so I
20 think you just -- I don't think seeing another
21 set of eyes on that would be an issue.

22 CHAIRMAN SETZLER: Senator from
23 -- (CLEARS THROAT) excuse me -- Senator from
24 Oconee, I tend to agree with you. Senator from
25 Edgefield, a question I got is, JBRC, if I

1 recall the statute, they cannot approve. They
2 can only recommend. So how are you going to
3 structure it? Am I correct in that, somebody?
4 staff?

5 CHAIRMAN MASSEY: Recommend.
6 well, I think there are two potential -- I mean,
7 if we want to get into this issue, there are two
8 potential ways of doing it. One would be
9 something like a JBRC oversight with some type
10 of recommendation. The other one would be what
11 the Senator from Oconee and Senator Hutto were
12 just talking about, is you put a limit on how
13 much they can borrow, and then you allow them to
14 operate within those parameters. But I mean --
15 I don't think this was my suggestion, but.

16 CHAIRMAN SETZLER: Senator from
17 Fairfield.

18 SENATOR FANNING: Are we not
19 talking about pulling them under the PSC? In
20 other words, this is an alternative to that, is
21 what you're describing?

22 CHAIRMAN SETZLER: This is
23 totally separate from that issue.

24 CHAIRMAN MASSEY: That's the next
25 issue.

1 SENATOR FANNING: Okay, well,
2 then I'll wait on --

3 CHAIRMAN MASSEY: Putting them
4 under the PSC. I mean, I guess we could talk
5 about it together, but it's going to kind of get
6 off (INDISTINCT).

7 SENATOR FANNING: In other words,
8 another layer of eyes or too much looking over
9 the shoulder, we talked about it before, is --
10 we've got a situation we -- I've been told, the
11 second I became a senator, is that Santee Cooper
12 is great because they're the only entity that
13 looks after ratepayers and we need that entity
14 to stay a public entity.

15 CHAIRMAN MASSEY: And then you
16 see what their rates are.

17 SENATOR FANNING: Well, I was
18 going to say -- but in reality, if you compare
19 them and their behavior with SCANA's behavior,
20 they raised rates, rubber-stamping them the
21 entire time. They increased their debts the
22 entire time. I don't see that one behaved any
23 better than the other. But at least with SCANA,
24 you had a system that, while maybe it was
25 rubber-stamping, at least there was a system

1 that they went through. But to have a board
2 that can just decide what rates they want to
3 choose and how much debt they want to go into
4 without some oversight, whether it's what you've
5 described or under the PSC, I think that they've
6 shown in their behavior that they need that
7 oversight.

8 CHAIRMAN MASSEY: Sean, does PSC
9 have to -- does PSC have to approve when the
10 investor-owned utilities borrow money? They
11 don't have to get into that, do they? Do they?

12 SENATOR FANNING: But, but --

13 CHAIRMAN MASSEY: Are you nodding
14 yes?

15 CHAIRMAN SETZLER: Well, but I
16 think there's -- before they answer, I think
17 there's a difference here in that if Santee
18 Cooper borrows it and goes under, then the state
19 is responsible for the debt. We're not
20 responsible for what SCANA or one of these
21 investor-owned utilities does, so.

22 SENATOR FANNING: But to follow
23 up, Mr. Chair, to illustrate your point is that
24 SCANA is answerable for their amount of
25 indebtedness. They're accountable to their

1 investors, right? I mean, that's who they're
2 accountable to in terms of how much debt they
3 can go into.

4 CHAIRMAN SETZLER: Senator --

5 SENATOR FANNING: But to your
6 point, we are the debtors. I was trying to
7 agree with you, is that --

8 CHAIRMAN SETZLER: Yeah.

9 SENATOR FANNING: -- (BREAK IN
10 AUDIO) same investors for Santee Cooper as
11 theirs. And so if they have to answer to their
12 investors, likewise, you'd like to have Santee
13 Cooper have to answer to our investors since
14 we'll be on the hook for it. Thank you.

15 CHAIRMAN SETZLER: Senator from
16 Edgefield, my only comment would be, if you're
17 going to make a motion, either couch it in the
18 terms of that they recommend, JBRC recommend,
19 and/or you could do a variation on what the
20 Senator from Orangeburg said and let them report
21 it to JBRC versus JBRC approving it. So, I
22 mean, there's all kind of ways we can do it. I
23 think the biggest problem is the knowledge and
24 it ending up in the state's lap if it goes. So
25 I'll leave it to you because you're the one

1 bringing it up.

2 CHAIRMAN MASSEY: Well, I bring
3 it up because I'm the guy who -- I'm the
4 messenger.

5 CHAIRMAN SETZLER: I know.

6 CHAIRMAN MASSEY: But, I mean, I
7 don't know that I'm particularly wed to either
8 thing, although I do think, based on what we've
9 learned about their ability to borrow the money
10 and you look at the amount of debt that they
11 have and then the fact that there's the statute
12 that appears to have some type of an impact on
13 the rates, securing those bonds, that does
14 concern me a little bit about having
15 unrestricted ability to borrow as much as they
16 want to borrow with no oversight or no -- there
17 are no restrictions on it.

18 SENATOR SCOTT: My concern,
19 again, in the oversight, will that affect the
20 ability to borrow because you add another level
21 of folk who have to approve it?

22 CHAIRMAN MASSEY: I think that's
23 the idea, is to affect their ability to borrow.

24 SENATOR SCOTT: I understand what
25 you're saying, but I'm saying you've already got

1 the bonds. The question, if I want to refinance
2 and you add another layer to do it, will that
3 affect the agreement I already have in place? I
4 don't have a problem with that going forward.
5 I'm more concerned about the 4.4 I've already
6 got in place now. At some point, if the rate
7 goes down, you're going to, of course, want to
8 get a smaller rate to cut your payment.

9 CHAIRMAN SETZLER: So what about
10 the idea then -- and I'm just talking out loud
11 -- combining what you and the Senator from
12 Orangeburg are saying and set a limit. If it's
13 50 percent, that's the limit. If you go above
14 the 50 -- and even when you borrow on the 50
15 percent, you've got to notify JBRC. If you're
16 going above the 50 percent, you've got to submit
17 it to JBRC.

18 SENATOR HUTTO: I can go with
19 that.

20 SENATOR ALEXANDER: And that way,
21 you've got at least the other set of eyes on it
22 from that standpoint.

23 CHAIRMAN SETZLER: Right.

24 SENATOR ALEXANDER: And then it's
25 being reviewed, so.

1 CHAIRMAN SETZLER: Right.

2 SENATOR ALEXANDER: And maybe it
3 needs to be 55 or 60. We need to probably make
4 sure of that. But I'm just telling you -- yeah,
5 the IOUs --

6 CHAIRMAN SETZLER: We can
7 introduce it at 50 and do what we need to do in
8 the process. Is there any objection to that
9 concept?

10 SENATOR FANNING: Are we only
11 talking about the amount (INDISTINCT) borrow?
12 We're not talking about (INDISTINCT)?

13 CHAIRMAN SETZLER: Correct.

14 CHAIRMAN MASSEY: That's not --

15 CHAIRMAN SETZLER: All right,
16 hearing none, we'll include that in the
17 legislation.

18 CHAIRMAN MASSEY: All right, so
19 then the next issue gets to where Senator
20 Fanning was going, and that is -- actually,
21 multiple people have suggested putting Santee
22 Cooper under PSC, at a minimum having PSC
23 oversight if Santee Cooper has a joint project
24 with an investor-owned utility like here. So
25 there's that issue about putting Santee Cooper

1 under the PSC.

2 UNIDENTIFIED SPEAKER:

3 (INDISTINCT)

4 CHAIRMAN MASSEY: well, I mean,
5 that's the overall issue, but then one thing
6 was, at a minimum to at least have PSC have
7 oversight when --

8 UNIDENTIFIED SPEAKER:

9 (INDISTINCT)

10 CHAIRMAN MASSEY: Right. Because
11 right now, they're limited -- their involvement
12 was limited only to the SCANA portion of it,
13 right? So that was something -- like I said,
14 there were multiple suggestions on that front
15 about engaging PSC for Santee Cooper issues.

16 CHAIRMAN SETZLER: Okay. Senator
17 from Fairfield.

18 SENATOR FANNING: I think we've
19 attacked the problem with ORS and PSC earlier
20 with some changes and some revisions that
21 hopefully make it more enforceable. I think
22 having two separate rules for two different
23 entities -- I don't know that that helps the
24 cause. If we've got a company that is allowed
25 to raise rates on their own without having to go

1 to anyone, we've just also created -- I'm sorry
2 -- we've just recommended the possible creation
3 of a consumer advocate process, as well as
4 putting some teeth into ORS and PSC. I don't
5 see the downside of bringing Santee Cooper, at
6 least in the rate increases, under PSC now that
7 we're beefing up looking out for the consumer.
8 Right now there's nothing, correct, that they
9 have to go to? Am I missing this? Do they have
10 to go to anybody to get a rate increase?

11 CHAIRMAN MASSEY: I think they
12 have to have public hearings.

13 SENATOR HUTTO: Yeah, they have
14 public hearings.

15 CHAIRMAN MASSEY: But their board
16 is the ultimate decision maker, right?

17 SENATOR FANNING: And so adding
18 another layer -- and I'll shut up -- but adding
19 another layer, I think, would be very helpful,
20 given the fiasco we're in.

21 CHAIRMAN SETZLER: Senator from
22 Orangeburg.

23 SENATOR HUTTO: I think we've got
24 to talk to some people before we make a decision
25 about that. I mean, that's just not the model

1 -- that is not the model of a public utility.
2 And if we're going to change the model for ours,
3 I want to know what effect it's going to have on
4 them as compared to borrowing and in their
5 realm, because a lot of their electricity is
6 sold to the co-ops, which is not a rate -- I
7 mean, that's a contract. So the rates they set
8 are (INDISTINCT) serve people, like in Berkeley
9 and Georgetown and Horry. But the rest of the
10 power that they sell, whether they sell to
11 municipals or they sell to industrials or co-
12 ops, are not -- it's just not exactly the same.

13 And if you're going to put them
14 under PSC, are you going to put the co-ops under
15 PSC? Because that's something we've always not
16 done. And you might ask the question why, and I
17 don't know that I know the history of that
18 either, but Senator Alexander is raising his
19 hand. He does.

20 SENATOR ALEXANDER: I think I --
21 well, certainly, at least from my standpoint,
22 the way I look at -- I certainly would have no
23 problem with Santee Cooper going completely
24 under the Public Service Commission. And we
25 talk about it being a utility. All the other

1 utilities are under that. And from the
2 standpoint of the co-ops, each co-op has a board
3 that is elected by their membership, and those
4 board members are paying the same rates that
5 they are setting, kind of like with water and
6 sewer and the municipalities and things of that
7 nature. Whereas with Santee Cooper, while
8 you've got some direct service areas, you have
9 other members of that board that are not direct
10 service members that they impact where that rate
11 is going to be for those folks that are from
12 that standpoint.

13 So I think that's the difference
14 with the co-ops. They are self-contained
15 because their membership is actually paying
16 those rates, and the theory -- or at least
17 what's always been explained to me -- kind of
18 goes back to that issue of having, with cities,
19 water rates different for outside versus inside
20 and those types of things, but you've got folks
21 that are setting those rates that are impacted
22 from that standpoint.

23 CHAIRMAN SETZLER: Senator from
24 Richland.

25 CHAIRMAN MASSEY: I guess the

1 question here, really, is do we want to explore
2 it further, right? But...

3 SENATOR SCOTT: I think I want to
4 stay closer to what created the real problem.
5 All before, it was functioning properly. I just
6 think that any cooperative or Santee Cooper or
7 any public utility that goes under the Base Load
8 Review Act, then they are subject to review by
9 the PSC commission. But as long as they ran
10 their standard business like they had, it was
11 never a problem. When they got into the public-
12 private partnership is when the problem came. I
13 think when you cross that line with your public-
14 private partnership, you open the door for
15 review, the same as a private utility company,
16 because that's who you're partnering with. I
17 would be more interested in them having a review
18 for the public with the PSC commission, only
19 those persons involved in the Base Load Review
20 Act.

21 CHAIRMAN SETZLER: Senator from
22 Fairfield?

23 SENATOR FANNING: And with due
24 respect, Senator from Richland, I would take an
25 (INDISTINCT) that there was no problem. Is

1 that, that -- the Santee Cooper rates, while we
2 thought they were low, it was because we
3 compared them to SCANA's rates. But if you
4 compare them with rates around the country,
5 Santee Cooper's rates were not low. I mean,
6 they weren't low compared to others.

7 And the (BREAK IN AUDIO)
8 fundamental problem is, is you've got one body
9 that's legislating and performing a judicial
10 function at the same time. In other words, they
11 are setting the rates, meaning they're setting
12 the policy, and they're also the judicial
13 review. So think about an appeal. Suppose we
14 don't like the rates that are set. Who do we
15 appeal to? The same body that set the rates.

16 I don't know how that's a system
17 that set that up, and even though the problem,
18 to the Senator from Richland's point, is good,
19 was magnified in this case, before this we still
20 had higher rates at Santee Cooper, and we've had
21 issues. I'm sure y'all have talked with
22 companies that have had problems trying to
23 negotiate, industries trying to negotiate deals
24 with Santee Cooper, and you can't negotiate with
25 Santee Cooper because they set the rates and

1 they are the judicial branch that determines
2 whether their own rates that they set should
3 apply in this case.

4 Having some set of agreements --
5 we've learned the lesson that unchecked,
6 unlimited power is what led to this, and we've
7 got to do something to make sure that Santee
8 Cooper is not unlimited and unchecked. And I
9 think, if we don't pull them under the PSC, they
10 will remain unlimited, unchecked.

11 CHAIRMAN MASSEY: Let me just say
12 to let you know, there's been a lot of talk in
13 the media and by others and even some people
14 here about whether to consider selling Santee
15 Cooper to a private entity, that that's -- you
16 know, I think probably the first step in that is
17 figuring out what the valuation is. That's
18 underway. But that's probably not going to be a
19 decision that we can make in the near future,
20 and by near future, I mean in the next several
21 weeks (INDISTINCT) or the next couple of weeks.

22 CHAIRMAN SETZLER: well, there
23 are a lot of study.

24 CHAIRMAN MASSEY: Yeah, I mean,
25 there's going to be a lot more information

1 that's out there. But certainly there's this
2 idea that -- well, I will say we've taken the
3 step to try to get the valuation of it, and
4 that's more in that direction than we've been
5 before. And as I've told several people, I
6 think Santee Cooper has earned the conversation,
7 at the very least. But I guess the issue right
8 now is whether we want to put them under the
9 PSC.

10 CHAIRMAN SETZLER: Senator from
11 Horry.

12 SENATOR RANKIN: I wanted to
13 chase the rabbit that we've addressed. Mr. ETV,
14 how am I doing? Mike right? We've got
15 competing signs: Hutto move his to the right, me
16 move mine to the left. Do they have this
17 backwards?

18 SENATOR HUTTO: Get close up to
19 the mike.

20 SENATOR RANKIN: They've got
21 nothing to do out there except get some light --
22 levity here. The point, though, that you just
23 raised -- and I've heard that it is underway,
24 the assessment of what Santee Cooper is worth.
25 who has done what? Has the Governor done

1 something? Has Santee Cooper done something?

2 You've, you --

3 CHAIRMAN MASSEY: Well, I mean,
4 obviously the Governor has done something,
5 right? I mean, I think that's even been
6 publicly reported. But I think there are --

7 SENATOR RANKIN: And I'm not
8 asking -- trying to get something that we don't
9 know, but has someone -- have we as a state, has
10 the Governor, has Santee Cooper hired --

11 CHAIRMAN MASSEY: It's in the
12 process.

13 SENATOR RANKIN: Okay. And that
14 is -- that'll be good.

15 CHAIRMAN MASSEY: But my
16 understanding is that there is a study underway
17 right now to evaluate --

18 CHAIRMAN SETZLER: I think that's
19 the only answer you're going to get.

20 CHAIRMAN MASSEY: -- to valueate.

21 SENATOR RANKIN: That's very
22 good. All right.

23 CHAIRMAN SETZLER: All right, so
24 we're back to the whole issue of the PSC,
25 Senator from Edgefield. You want to put that in

1 the form of a motion some way or another?

2 SENATOR RANKIN: Well, if I can,
3 before we get there, rather than saying it at
4 the point of discussion, I share what Senator
5 Hutto has said. I'm not wed to one model versus
6 another, but, again, you have a history of
7 apparent success with one colossal failure.
8 And, again, pointing the fingers at all or none
9 -- I'm not trying to exempt anyone from this --
10 there are lots of reasons that we don't know
11 why, historically, they have not been subject to
12 the Public Service Commission. My only caveat
13 is, as we get this, I'm going to want to hear
14 from smarter people than us as to the
15 implications of that, as I know you all
16 entertain and are seeking. But there's got to
17 be more than just, Oh, let's put it over there;
18 oh, let's just don't let them look at it.

19 CHAIRMAN SETZLER: Senator from
20 Orangeburg.

21 SENATOR HUTTO: Well, I mean,
22 this is an issue worthy of discussion, but I
23 don't think we have the facts today to make a
24 motion and vote on what we would recommend. I
25 don't know what the appropriate motion is, but

1 maybe to carry over with the understanding that
2 staff continue with this as a subject matter
3 item that we look at. But I agree with the
4 colleague from Horry that, before we have a true
5 discussion about what's right, we need some
6 folks testifying about why historically it's
7 this way, how other states have done it, have
8 any moved over from the true public utility
9 model to a hybrid where you go before the PSC,
10 are there some ways that others do it.

11 I do think it needs to be
12 transparent, I think it needs to be subject to
13 public input, and everybody needs to have the
14 ability to comment on it. But I don't know that
15 it needs to directly go under PSC, and I'm not
16 sure that's not a slippery slope in some
17 regards. I just don't know.

18 CHAIRMAN MASSEY: Yeah, and I
19 think really what we're talking about right now
20 is just whether the committee wants to support
21 having legislation introduced so that then it
22 could go through the subcommittee and committee
23 process for vetting. And if --

24 CHAIRMAN SETZLER: It's going to
25 y'all.

1 CHAIRMAN MASSEY: If the
2 committee -- and I don't know where this one --
3 this one may even go -- we're talking about
4 money. It may go to Finance.

5 CHAIRMAN SETZLER: True.

6 CHAIRMAN MASSEY: It probably
7 should go to finance because of the expertise
8 over there, honestly. But I think, again, if
9 it's not something that the committee as a whole
10 wants to get behind, that's okay. I suspect
11 somebody's going to introduce it, so the
12 vehicle's going to be there in any event. You
13 know, the whole purpose in doing this exercise
14 with all this stuff today is that I think the
15 rest of the body is going to be looking for
16 recommendations out of this committee as a
17 whole, and if there's some things that we can't
18 agree on, we can't agree on, but.

19 CHAIRMAN SETZLER: Senator from
20 Fairfield.

21 SENATOR FANNING: I still haven't
22 heard a reason, a bad reason, for putting it
23 under PSC. I do under -- I've heard caution,
24 and I've listened to that. But I have yet to
25 hear a reason not to put them, and so all of the

1 things we've talked about this morning, all we
2 promised is that we would be putting forth a
3 bill that, in the vetting process, very well may
4 be shut down. And so I would certainly support
5 a motion that would at least allow a bill to be
6 created to allow testimony, Senator from
7 Orangeburg, to be heard, so we bring in the
8 experts to find out what those downsides would
9 be. So I would second the motion.

10 CHAIRMAN SETZLER: Senator from
11 Edgefield, did you make a motion?

12 CHAIRMAN MASSEY: I will.

13 CHAIRMAN SETZLER: Okay, the
14 Senator from Richland.

15 SENATOR SCOTT: Mr. Chairman, I
16 really want to just kind of stay on the focus of
17 what the real issue is and what really caused us
18 to be at this point that we are, and that was
19 the fact of the public-private partnership, and
20 you had the private sector being looked at at
21 the PSC commission and the public sector not.
22 And so I think if we're going to stay focused on
23 the real problem, at least when these type of
24 joint ventures occur, they are both looked at at
25 the same time and fed out of the same

1 (INDISTINCT).

2 I'm still not convinced, and I
3 would -- and I kind of agree with the Senator
4 from Horry. I still want to see a little bit
5 more and get a little bit more input to why we
6 would need to put Santee Cooper completely under
7 PSC as it relates to rates. But I want to just
8 kind of stay focused on what the real problem is
9 -- we can always come back and deal with some of
10 the other issues that are out there -- so we can
11 kind of get through this process. But I don't
12 have a problem anytime, not only Santee Cooper,
13 if there are other public utility companies or
14 companies that enter this joint venture under
15 this Base Load Review Act, they should both be
16 looked at at the Public Service Commission.

17 CHAIRMAN MASSEY: Well, Mr.
18 Chairman, let me do it this way, all right,
19 since -- because --

20 CHAIRMAN SETZLER: And I wasn't
21 cutting the Senator from Fairfield off, but I
22 didn't hear you make a motion, so that's the
23 reason I didn't take the second.

24 CHAIRMAN MASSEY: Whatever he was
25 it seconded, I'll make that motion.

1 CHAIRMAN SETZLER: Go ahead.

2 CHAIRMAN MASSEY: No, what I was
3 going to suggest is, because a couple of people,
4 I think, suggested this issue, then what I'll do
5 is I'll make the motion, and if the committee
6 supports it, fine. If the committee doesn't
7 support it, fine. We'll move on either way. Is
8 that all right?

9 CHAIRMAN SETZLER: Yeah, I think
10 if it fails and the Senator from Richland wants
11 to make his motion, he can do that.

12 CHAIRMAN MASSEY: That's fine.

13 CHAIRMAN SETZLER: Senator from
14 Oconee.

15 SENATOR ALEXANDER: And I was
16 just going to say, too, I do think that -- I've
17 been persuaded by the concerns from the Senators
18 from Horry and Orangeburg that at least more
19 dialogue needs to happen, so I think if we
20 include this in kind of a package from this
21 committee, it's almost like we kind of endorse
22 it, and I'm not sure that we're to that point
23 yet. I'm supportive personally of putting it
24 under there, but I would like to have additional
25 information before we really do it from this

1 side. I don't know how it would be perceived
2 from that standpoint if we include that as part
3 of a package that I understand that this
4 committee is kind of going to be putting
5 together. Now, maybe if, in two or three weeks,
6 we could have a report back from the staff as to
7 -- we could do it as a separate -- I mean, I
8 know we want to wrap this up now, but it could
9 be a separate issue.

10 CHAIRMAN MASSEY: And I
11 understand that, and like I said, I don't really
12 care either way. But, I mean, I think --
13 because, again, there will be legislation
14 introduced on this point, I'm sure, and so I
15 expect that it would get a subcommittee hearing
16 on it and be vetted. You know, our hope is that
17 this is the last meeting of this committee. So
18 -- yeah?

19 CHAIRMAN SETZLER: Senator from
20 Dorchester.

21 CHAIRMAN MASSEY: Any objection
22 to that?

23 CHAIRMAN SETZLER: Senator from
24 Dorchester.

25 CHAIRMAN MASSEY: He was just

1 seconding that.

2 SENATOR BENNETT: I was just
3 seconding that.

4 CHAIRMAN SETZLER: Oh.

5 CHAIRMAN MASSEY: He was
6 seconding no more meetings. But because a
7 couple of people did mention it, I feel like
8 that I ought to at least make the motion, so
9 I'll make the motion. If it passes, great. If
10 it doesn't, that's fine too.

11 CHAIRMAN SETZLER: All right,
12 we've got a motion that the PSC have oversight
13 over Santee Cooper. Is there a second?

14 UNIDENTIFIED SPEAKER: I second.

15 CHAIRMAN SETZLER: Second. Any
16 further discussion? All those in favor, raise
17 your right hand. All opposed. It fails by a
18 vote of five to four, I believe. Is that
19 correct?

20 UNIDENTIFIED SPEAKER: Or four.

21 CHAIRMAN SETZLER: Four-five,
22 yeah. All right, Senator from Richland.

23 SENATOR SCOTT: I would propose
24 that any public utility, which includes Santee
25 Cooper, who entered into a public-private

1 partnership, the use of the Base Load Review Act
2 must be reviewed by the Public Service
3 Commission, both the public and the private.

4 CHAIRMAN SETZLER: Is there a
5 second?

6 UNIDENTIFIED SPEAKER: Second.

7 CHAIRMAN MASSEY: Can I ask a
8 question on this?

9 SENATOR SCOTT: Mm-hmm.

10 CHAIRMAN MASSEY: Are you
11 limiting it just to Base Load Review Act
12 projects or any type of public-private
13 partnership?

14 SENATOR SCOTT: Do we have
15 another document that they can have public-
16 private partnership?

17 CHAIRMAN MASSEY: I don't think
18 there's a prohibition on it.

19 CHAIRMAN SETZLER: I don't think
20 there's a prohibition.

21 SENATOR SCOTT: well, any public-
22 private partnership.

23 CHAIRMAN SETZLER: Okay, I have a
24 motion and a second. Any discussion? All those
25 in favor, raise your right hand. All opposed,

1 no. So ordered. All right, next item.

2 CHAIRMAN MASSEY: All right, I
3 think that was the last -- did I miss anything
4 under Santee Cooper?

5 CHAIRMAN SETZLER: No, I think --

6 SENATOR FANNING: (INDISTINCT)

7 CHAIRMAN MASSEY: Did you have
8 something, Senator?

9 SENATOR FANNING: (INDISTINCT)

10 CHAIRMAN MASSEY: Okay, I'm
11 sorry.

12 SENATOR FANNING: (INDISTINCT)

13 The first one is that the Governor has
14 established a priority of an investigation and
15 an analysis of the worth of Santee Cooper. And
16 so I would like to propose that this body --
17 that the senate also conduct its own independent
18 analysis of the value of Santee Cooper and the
19 two reactors.

20 CHAIRMAN MASSEY: I think that's
21 underway.

22 SENATOR FANNING: So we are
23 already doing that? That's better than a voted
24 motion then.

25 CHAIRMAN MASSEY: But if we want

1 to -- I mean we --

2 SENATOR FANNING: Then I move
3 that this committee support the evaluation
4 currently underway by the Senate to evaluate the
5 value of both Santee Cooper and the two reactors
6 to make sure that that's in there.

7 CHAIRMAN MASSEY: I don't know --

8 UNIDENTIFIED SPEAKER: Half of
9 that.

10 CHAIRMAN SETZLER: Yeah, I don't
11 know that you've got the ability to do the two
12 reactors.

13 CHAIRMAN MASSEY: I don't know
14 that we've --

15 SENATOR FANNING: We don't have
16 the ability to even evaluate the two reactors?

17 CHAIRMAN MASSEY: I don't know.

18 SENATOR FANNING: I can
19 understand not having the votes to do it, but I
20 certainly can't understand how we wouldn't have
21 the capability.

22 CHAIRMAN SETZLER: Because we
23 don't own it.

24 SENATOR FANNING: We own 45
25 percent of it.

1 CHAIRMAN SETZLER: That's not a
2 majority.

3 SENATOR FANNING: So you're
4 saying owning 45 percent would not even allow us
5 --

6 CHAIRMAN SETZLER: Senator, I'm
7 not arguing with you. I'm just saying it's not
8 as easy as you make it sound that you can do
9 that. I'll vote for your motion. I think you
10 just -- to say we can't do it -- nobody's saying
11 we can't do it, but we don't own it. We own 45
12 percent of it, which is a minority portion of
13 it.

14 SENATOR FANNING: Then I will
15 amend my motion in that we evaluate Santee
16 Cooper and 45 percent of the two nuclear
17 projects. We have --

18 CHAIRMAN SETZLER: Do I have a
19 second? Second. Any discussion? All those in
20 favor, raise your right hand. All opposed?
21 wait a minute. Hold -- everybody raise your
22 right hand that's in favor. One, two, three,
23 four... Okay. And those opposed. Okay, it
24 passes.

25 SENATOR FANNING: Second one,

1 currently -- oh, may I go, Mr. Chair?

2 CHAIRMAN SETZLER: Sure.

3 SENATOR FANNING: The second one
4 is current statute prohibits Santee Cooper from
5 investigating its own sale. And so to support
6 the process of getting to the point of
7 determining value and our opportunities, this
8 motion would not be to sell Santee Cooper, but
9 would be to amend the current statute, 58-31-
10 30(B), that prohibits them from investigating
11 their own sale and then to instruct them to
12 investigate selling themselves.

13 CHAIRMAN MASSEY: I think there's
14 an independent investigation being done as to
15 the value and then on the sale. I mean, I -- so
16 this is just us talking at this point, well, and
17 the whole world listening, I guess. This
18 prohibition -- there are others on this
19 committee that could talk more intelligently
20 about this than I can. It came -- because I
21 think it came about --

22 UNIDENTIFIED SPEAKER:

23 (INDISTINCT)

24 CHAIRMAN MASSEY: A bright light,
25 ta-da. I think this statute came about a few

1 years before I was elected and because of the
2 considerable amount of discussion then about
3 potentially selling Santee Cooper. I don't
4 necessarily have a problem with it myself, but
5 it could potentially pick a scab somewhere.
6 Although, again, I'll say that I think they've
7 earned the conversation this year, and probably
8 more people are willing to at least listen to
9 the conversation now than they would have been
10 ten years ago.

11 CHAIRMAN SETZLER: Senator from
12 Williamsburg.

13 SENATOR SAAB: Mr. Chairman, it
14 just occurs to me that all of these evaluations
15 are going to cost money, and I'm just not sure
16 about the prudence of advocating three or four
17 different evaluations at the same time. If
18 there is --

19 SENATOR FANNING: This one
20 (INDISTINCT).

21 SENATOR SAAB: It would cost no
22 money? Then kindly share with me how that --

23 SENATOR FANNING: Mr. Chairman,
24 the prior motion that I proposed did cost money.

25 SENATOR SAAB: Yes, sir, and

1 that's why I opposed it.

2 SENATOR FANNING: But this one,
3 all I'm wanting to do is there's a statute that
4 prohibits Santee Cooper from investigating its
5 own sale.

6 SENATOR SAAB: Yes, sir, but as I
7 understood the last portion of what you said --
8 I understood the portion where you said let's
9 (BREAK IN AUDIO) and permit it, and then I heard
10 you say, And then let's direct it.

11 SENATOR FANNING: Direct them to
12 investigate their own sale, correct.

13 SENATOR SAAB: Exactly, and I --

14 SENATOR FANNING: It should not
15 cost them any money.

16 CHAIRMAN SETZLER: Senator from
17 Fairfield, can I give you a thought? would it
18 be better to withhold that until after the
19 legislation is introduced and goes then to a
20 subcommittee, particularly in light of what the
21 Senator from Edgefield has said, that that's
22 underway, and you will know more at that point
23 of whether, in fact, you may not need or want to
24 do that in the statute?

25 SENATOR FANNING: what would be

1 the downside of allowing them to investigate
2 their own sale?

3 CHAIRMAN SETZLER: Senator
4 Rankin.

5 SENATOR RANKIN: I'm not going to
6 answer that question, but I --

7 CHAIRMAN MASSEY: You're not
8 going to answer that question, but (INDISTINCT).

9 SENATOR RANKIN: I'm not going to
10 do it. The one person who is hearing me now is
11 laughing over there. No, I don't want to say
12 this lightly or insincerely, but if others are
13 going to appraise the value of this asset, I see
14 no harm in letting Santee Cooper pursue the
15 appraisal of that asset, much like a -- let's
16 say you've got a condemnation case. You're
17 going to have competing appraisals.

18 I'm not suggesting that we spend
19 money foolishly just to say, okay, I've got
20 mine. But if, in fact, the public is going to
21 look at some ultimate appraisal of what this
22 thing is worth, there should be -- they should
23 have the ability to hire their own. We, as the
24 public who own this asset, should insist on
25 independent appraisers. Now, again, who, how,

1 what, and the one that will be underway now,
2 perhaps that's the gold standard, but what's
3 good for the goose ought to be good for the
4 gander. Happy Thanksgiving to you too.

5 CHAIRMAN SETZLER: Okay, we have
6 a motion from the Senator from Fairfield to
7 amend the statute to allow them to do their own
8 appraisal. Is there a second?

9 UNIDENTIFIED SPEAKER: Second.

10 CHAIRMAN MASSEY: That's fine.

11 CHAIRMAN SETZLER: Any further
12 discussion? All those --

13 SENATOR ALEXANDER: I've got one
14 further --

15 CHAIRMAN SETZLER: Senator from
16 Ocone.

17 SENATOR ALEXANDER: So that would
18 be open-ended? It would not just be this one
19 time that they could do that.

20 CHAIRMAN SETZLER: Correct.

21 SENATOR ALEXANDER: So they could
22 do it on an ongoing --

23 CHAIRMAN SETZLER: Correct.

24 CHAIRMAN MASSEY: And I'll add to
25 that. I mean, it's still the General Assembly's

1 decision as to whether you're going to sell it,
2 right?

3 SENATOR FANNING: And only a lack
4 of information in the past and more information
5 in the future was the reason.

6 CHAIRMAN SETZLER: Yeah. All
7 right, all those in favor of the motion, raise
8 your right hand. All opposed? The ayes have
9 it. All right, next.

10 SENATOR FANNING: (INDISTINCT)

11 CHAIRMAN SETZLER: Yes, sir?

12 SENATOR FANNING: (INDISTINCT)

13 CHAIRMAN MASSEY: Yes.

14 SENATOR FANNING: And I should
15 just put this in the form of a motion just to
16 move it along, but the Governor has moved down a
17 path regarding the possible sale of Santee
18 Cooper and 45 percent of the nuclear reactors,
19 and we've been convening to get to the bottom of
20 it and to talk about what solutions might be.
21 One or two folks have reminded me that the
22 Governor can't do it, only this body can do it,
23 and so I was wanting this committee to have some
24 discussion about the sale of Santee Cooper that
25 would include the sale of reactors that could

1 possibly get us towards a resolution that would
2 give ratepayers something back for ten years of
3 increased rates.

4 And so I am proposing that we
5 investigate the sale of Santee Cooper and the
6 two reactors with the goal of not only getting a
7 private entity that would be held accountable in
8 the same revised process that we talked about
9 earlier, but also would then have the capacity
10 to make sure that we finish the \$9.5 billion
11 that's been invested so far and that ratepayers
12 get something as a result of this and cheaper
13 power rates.

14 CHAIRMAN SETZLER: Senator from
15 Richland.

16 SENATOR SCOTT: As I have
17 indicated in an earlier meeting that we had, the
18 Governor (INDISTINCT) as it relates to the 45
19 percent reactors, and I know that the Senator
20 from Fairfield really wants to do something
21 about either getting them to completed or either
22 to make the public whole. It is only SCANA who
23 can make the decision to who buys it.

24 Now, no matter if we found
25 somebody and they had the best deal in the

1 world, if SCANA actually said no, we have wasted
2 a lot of valuable time. Until SCANA decides and
3 says, Okay, we are working in conjunction with
4 you to sell 45 percent, I think the rest of it,
5 we're just going to be spinning our wheels
6 because I don't think they're going to just
7 automatically come to that point to agree on
8 anybody because I think the co-op early on, I
9 think, had investigated some other folk in
10 trying to sell 25 percent, and of course they
11 hit a brick wall, and SCANA said no.

12 SENATOR FANNING: Mr. Chairman?

13 CHAIRMAN SETZLER: Senator from
14 Fairfield.

15 SENATOR FANNING: I do believe we
16 might have a teensy bit more leverage over SCANA
17 at this point than we did three years ago when
18 they turned Duke down. And we haven't gotten to
19 reducing rates from 18 percent back to zero,
20 which I'm assuming we're going to talk about
21 this afternoon. We haven't talked about clawing
22 back monies that they took from folks over ten
23 years to not deliver any reactors whatsoever.
24 In other words, I think we have some leverage,
25 Senator from Richland, over SCANA that could

1 help us in being able to deal with the fact that
2 they would be the majority partner.

3 CHAIRMAN MASSEY: So let me ask a
4 question. I thought earlier we adopted your
5 recommendation to recommend that we get an
6 evaluation of both Santee Cooper and the two
7 reactors, right? How is this different than
8 that?

9 SENATOR FANNING: well, probably
10 if this was not the final meeting of this
11 committee ever, as the motion by my --

12 SENATOR BENNETT: I just
13 seconded.

14 SENATOR FANNING: Seconded. I
15 probably wouldn't worry about pushing that
16 conversation today. But the fact that this
17 committee won't be meeting again, when we have a
18 public discussion out there about possible
19 solutions, at least having this committee
20 somehow stating that we are open to a solution
21 that would involve the sale of Santee Cooper
22 with the caveat that the buying entity at least
23 look at preserving the state assets that are the
24 reactors that give us those opportunities down
25 the road -- and the reason I mention that is I'm

1 also assuming we're about to talk about some
2 kind of protection of current assets that might
3 be damaged, that we discovered in our last
4 meeting. We can't talk about that and not talk
5 about the reason we might want to protect them,
6 right, and we want to protect them because we
7 see a possible avenue.

8 When the Governor first mentioned
9 the sale of Santee Cooper, if you remember, the
10 big criticism was nobody in their right mind
11 would ever buy Santee Cooper with all that debt.
12 And now we have quite a few people that are
13 interested in buying Santee Cooper with all that
14 debt. And then we heard that none of these
15 buyers would be interested, in any way, shape,
16 or form, in helping finish the reactors at some
17 point. And now we know that a good number of
18 them have plans to, at some point soon, going to
19 work on two and then delaying three for 10, 15
20 years until we get to that point. Since this is
21 the last time we will convene, making sure that
22 we have a chance --

23 CHAIRMAN SETZLER: Senator, I
24 don't want to interrupt you, but the Chairman of
25 Senate Finance and President Pro Tem has

1 informed us that this may not be our last
2 meeting, that this committee may not be
3 dissolved. It will be held in abeyance until he
4 sends us other work to do, if he sends us work.

5 CHAIRMAN MASSEY: Object. Can we
6 resign? No. Yeah, I mean, I think this is
7 something that -- I mean, the issue of the
8 future of Santee Cooper, there's a whole lot
9 wrapped up into that. It seems to me that the
10 first step is to get an evaluation so that we
11 know what we're dealing with. Then I think
12 there are going to be many conversations that
13 flow from that. If you ever get to the point of
14 really entertaining the possibility of selling
15 that asset, then I think you're going to have to
16 include in that negotiations as to what you're
17 going to get as part of the process, right? I
18 mean, that's going to include potentially the
19 reactors. It's going to include potentially the
20 rates, you know, those type of things.

21 But I guess my thought on this
22 one is that maybe we need to be a little bit
23 more patient on this one. Let's get the
24 valuation first, and let's take it one step at a
25 time. And if that means that we get to

1 reconvene this committee to then look at those
2 things and figure out where to go from there,
3 maybe that's the best approach. I understand
4 exactly now what you're saying, and I understand
5 the motives for doing that as well. We're
6 dealing with a lot of hypotheticals. So I guess
7 my -- and I'll make whatever motion, or you make
8 whatever motion you want on that. I think my
9 preference, Mr. Chairman, at this point would be
10 let's get the valuation study done --

11 CHAIRMAN SETZLER: Right.

12 CHAIRMAN MASSEY: -- and then
13 let's figure out -- let's take that and figure
14 out where to go from there.

15 SENATOR FANNING: Mr. Chair, I
16 withdraw the motion.

17 CHAIRMAN SETZLER: Okay. All
18 right, anything else on Santee Cooper? All
19 right, Senator from Edgefield.

20 CHAIRMAN MASSEY: All right. Mr.
21 Chairman, I'm going to skip over what our --

22 CHAIRMAN SETZLER: I don't think
23 we intended any special order anyway.

24 CHAIRMAN MASSEY: Okay. All
25 right. Let's get to the issue that we've had

1 the most comments about, and that deals with the
2 rates. This is probably what's gotten most of
3 the attention on the House side and in the press
4 as well. But we have had a number of people
5 recommend that the utilities not be allowed to
6 continue charging -- they're charging every
7 month for the nuclear project, which I think
8 we've heard from -- SCANA was roughly 18 percent
9 of their bill is going to that project, and from
10 Santee Cooper, I think it's 4.3 percent devoted
11 to the nuclear project. So I'll throw that
12 issue out there for the committee's
13 consideration.

14 CHAIRMAN SETZLER: Okay, Senator
15 from Richland.

16 SENATOR SCOTT: If we did that,
17 Mr. Chairman, has either side, Santee Cooper or
18 SCANA, indicated what the net effect would be?
19 Are there other things tied to the project that
20 maybe we have not talked about in here if we
21 make that decision today to cut the 18 percent
22 off?

23 CHAIRMAN MASSEY: I don't know
24 that I understand the question, Senator.

25 SENATOR SCOTT: Well, the 18

1 percent is supposed to all be about the project
2 itself. Is there anything in the 18 percent
3 that we have not talked about that could be
4 affected by that 18 percent, or 18 percent will
5 satisfy all the debt that they already have out
6 there? Is there any bond indebtedness that a
7 portion of this 18 percent is paying on? Is
8 there any other administrative costs we don't
9 know anything about that the 18 percent is
10 paying on? And, also, on the Santee Cooper
11 side, is there other things that we don't know
12 about, if we make that decision that that's the
13 way we need to go? I'm not saying I --

14 CHAIRMAN SETZLER: It's my
15 understanding that what the Senator from
16 Edgefield said relates only to the nuclear.

17 SENATOR SCOTT: Okay.

18 CHAIRMAN SETZLER: The 18 percent
19 and the 4 1/2, is that what you said?

20 CHAIRMAN MASSEY: 4.3.

21 CHAIRMAN SETZLER: 4.3.

22 SENATOR FANNING: Mr. Chair,
23 Santee Cooper was 15, and you're backing it to
24 4.3 to specifically back out anything else, are
25 you not?

1 CHAIRMAN MASSEY: Those were the
2 numbers that we got from Santee Cooper that's
3 specifically devoted to those two reactors, is
4 4.3 percent.

5 SENATOR FANNING: (INDISTINCT)

6 CHAIRMAN MASSEY: That's right.
7 I mean, there were other -- SCANA told us that
8 they had other rate increases over that time
9 period, but only 4.3 percent was devoted to
10 those two reactors and that project.

11 SENATOR FANNING: And we have no
12 check to that. We're taking their word for it.

13 CHAIRMAN MASSEY: well --

14 SENATOR FANNING: Because no one
15 oversees them, but I get your point, and I think
16 that's at least a minimum we should do.

17 CHAIRMAN MASSEY: And I would
18 hope that the subcommittee looking into this
19 one, if we get to that point, is really going to
20 delve into exactly what those numbers are and to
21 (INDISTINCT).

22 SENATOR SCOTT: And the reason
23 why, Mr. Chairman, the reason why I asked that,
24 because what's floating out there was SCANA was
25 immediately talking about reducing it to three

1 percent, rather than the four percent. So I'm
2 trying to figure out the difference between the
3 three and the four percent.

4 CHAIRMAN MASSEY: I think the
5 proposal that was revealed last week was to
6 reduce it by 3 1/2 or 3 percent.

7 SENATOR FANNING: (INDISTINCT) 15
8 percent higher.

9 CHAIRMAN MASSEY: But there would
10 still be some of it.

11 CHAIRMAN SETZLER: Senator from
12 Orangeburg.

13 SENATOR HUTTO: I don't think we
14 have any authority to do this. I think that the
15 free market is out there and controls a lot of
16 this, and for government to dictate to a private
17 company what they've got to do -- I just don't
18 think we have the authority to do it. I think
19 you're buying yourself a lawsuit. It'd be a
20 taking. I mean, there is a myriad of problems
21 with this, and I just think for us to go -- I
22 understand the House has grandstanded on this
23 issue and they've beat their chest like they're
24 going to do something about it. They're not
25 going to do a thing about it. They just want

1 the headlines.

2 And if we just bite that off and
3 say, well, we want to do better than the House
4 or the same as the House, we're just ignoring
5 the fact that we are without authority to order
6 a private company to do something. I just don't
7 think we have that authority at all.

8 CHAIRMAN MASSEY: First of all, I
9 want to welcome the Senator from Orangeburg to
10 the market philosophy. I appreciate that.

11 SENATOR HUTTO: You can foresee
12 my speech on the floor if you --

13 CHAIRMAN MASSEY: I appreciate
14 that. And if that is a motion to deregulate our
15 electricity industry, I'll second that motion.
16 But the difference here is that it's not market,
17 right? I mean, it is regulated. They are a
18 regulated monopoly. The citizens of this state
19 give them an exclusive service territory, and we
20 set --

21 SENATOR SCOTT: Sure, and if you
22 want to change it going forward, let's change it
23 going forward.

24 CHAIRMAN MASSEY: But we set the
25 rates, right? The General Assembly is the

1 ultimate rate maker, and we have the PSC as an
2 arm of the General Assembly to set those rates.
3 They can't do anything with rates without the
4 PSC approval.

5 SENATOR HUTTO: And I see you've
6 now come over to the government intervention and
7 everything.

8 CHAIRMAN MASSEY: That's why I
9 wanted to open up with (BREAK IN AUDIO) because
10 I would have preferred that this committee have
11 a conversation about deregulating everything.
12 But I know I'm not going to get very far with
13 that conversation.

14 SENATOR HUTTO: I'll grant you
15 that there are -- as we recruit new industries
16 and as we look at things, the ability of people
17 to shop in the marketplace, the ability to buy
18 your power from somewhere other than a monopoly,
19 just like you can shop for your telephone, your
20 cable, and all that, maybe we should look at
21 that. Maybe that time has come that, if the
22 power is on the grid and people want to have
23 solar and augment that with -- and whoever can
24 supply it the best.

25 The difference is what'll happen

1 is, people in the cities or people where there's
2 a congregation of population are going to get
3 better rates, and that's the whole idea. We've
4 got the service stories because we've mandated
5 that, if you build a house anywhere in this
6 state and you put power to it and you flip the
7 switch on, power is going to come to you. So
8 that's a very important concept not to lose.

9 CHAIRMAN MASSEY: That's a fair
10 point.

11 SENATOR HUTTO: Right.

12 CHAIRMAN MASSEY: A good reason
13 to have the regulated status that we have.

14 SENATOR HUTTO: Exactly. So if
15 we want to change the rules of the game going
16 forward, if we want to say that nobody can
17 charge more than X or that all power companies
18 must be a certain percent solar, or we can do --
19 you're right. We can do a lot of things going
20 forward.

21 But I think you're asking us to
22 accept that we can go backwards and undo
23 decisions of the PSC that were made in good
24 faith at the time, based on information that was
25 available, and I know we can debate whether all

1 the information was there. I mean, obviously,
2 we've decided now that, in hindsight, maybe
3 there should have been a consumer advocate at
4 the table arguing a different side of the issue.
5 I just don't think you can go back, at this
6 point in time, and undo and redo rates of a
7 private company that followed the rules that we
8 laid out.

9 CHAIRMAN MASSEY: So just to
10 respond to that, I mean, I think it's -- to say
11 the least, it is debatable as to whether they
12 followed the rules and whether they ought to be
13 rewarded for deliberately misleading people.

14 SENATOR HUTTO: Well, to the
15 extent they didn't follow the rules and somebody
16 committed a crime or somebody violated the law,
17 there are ways to hold them accountable.
18 Obviously, there are lawsuits out there now that
19 are asking the courts to redress some of this,
20 and that may be a better forum than us to go
21 back and retroactively change the rules of the
22 game.

23 CHAIRMAN MASSEY: Here's the way
24 -- so when I'm looking at this, I see basically
25 three pots of money, okay. I see the money that

1 they've already collected. I'm an SCE&G
2 customer. The money that I've already paid, all
3 right. There is a proposal in the House to
4 require them to refund that money. Another pot
5 is the money that they continue to collect every
6 month for that project. For SCE&G, that's
7 roughly 18% of the residential bill, \$37 million
8 a month; 450 million, whatever, roughly a year
9 that they're collecting. They continue to
10 collect --

11 CHAIRMAN SETZLER: Related to
12 nuclear.

13 CHAIRMAN MASSEY: Exclusively for
14 nuclear. That 18 percent is for that project.
15 There's a third pot of money, which would be,
16 under the Base Load Review Act, whether they
17 would be permitted to recover their abandonment
18 costs, right, with the investments that they've
19 made. And we'll get into that conversation when
20 we talk about the Base Load Review Act. I think
21 even they would acknowledge they're not going to
22 get that money now, or that third pot of money.

23 Now, let's go back to the first
24 pot, the pot they've already collected. The
25 House's proposal is to require them to refund

1 it. Conceptually, personally, I agree with that
2 because I think they duped a lot of people and I
3 think, if they're trying to abandon the project,
4 it's difficult to understand why I should have
5 to pay for that. But --

6 SENATOR HUTTO: To be clear,
7 they're not trying to abandon the project. They
8 are.

9 CHAIRMAN MASSEY: That's true.
10 You're right. They're abandoning, and there's
11 no question about that.

12 SENATOR HUTTO: That's right.

13 CHAIRMAN MASSEY: But I don't
14 think it's realistic to say they're going to
15 have to refund the money, right? I mean, I
16 don't think they could do it even if they wanted
17 to.

18 SENATOR HUTTO: Right.

19 CHAIRMAN MASSEY: And I think
20 it's important that we not set the expectation
21 for the public that they're going to get that
22 money back.

23 SENATOR HUTTO: Nor should we do
24 something that drives them into bankruptcy.

25 CHAIRMAN MASSEY: And we'll get

1 to that in just a second. Because we didn't put
2 them here, right? They did this to themselves,
3 and I'm not accepting service on that. They've
4 done this to themselves.

5 SENATOR HUTTO: I understand, Mr.
6 Free Market. They did. But --

7 CHAIRMAN MASSEY: But I actually
8 think that the House's approach on this has been
9 irresponsible because they are creating an
10 expectation that people are going to get their
11 money back and there's no realistic opportunity
12 for that.

13 SENATOR HUTTO: We can agree on
14 that completely.

15 CHAIRMAN MASSEY: Plus, there is
16 -- I think there is, as you suggested, there is
17 a real constitutional issue on takings there,
18 right? The middle part is what we're talking
19 about here, and that is the money they continue
20 to collect every month, that's in my bill this
21 month, that's going to be in my bill next month.

22 SENATOR HUTTO: And if you want
23 to pass a law that says they've got to go back
24 before the PSC and justify, going forward,
25 continuing to collect that, I think that's

1 different than mandating that they've got to do
2 something from the General Assembly, because I
3 think that they get the opportunity to be heard
4 on that as to why it might be justified or some
5 -- and the consumer advocate, if we've created
6 one by then, can come in and argue why it should
7 not be justified. So I think if you want to set
8 up the argument that that's an issue -- I agree
9 that's an issue worthy of debate, but I think it
10 has to be done in the right forum, and the rate-
11 setting forum should not be this body because,
12 if we undertake to do that this time, people are
13 going to start coming back to us every time and
14 wanting us to undo and set rates. And we just
15 need to send that where it needs to go.

16 CHAIRMAN MASSEY: well, I don't
17 think you're going to have a situation where
18 people are coming back to us all the time asking
19 to reset rates. This is a very unique
20 situation, and I think it ought to be treated as
21 being unique. I don't think that the General
22 Assembly ought to be setting rates all the time,
23 even though I think that that is a function that
24 the General Assembly could exercise, and I think
25 the courts have recognized that the General

1 Assembly could exercise that function. But,
2 instead, the General Assembly has elected to
3 create the Public Service Commission in order to
4 hear and act on those things.

5 But in this case, the Public
6 Service Commission was -- and this is my -- I
7 think they were duped. I think ORS was duped.
8 And as a result, I think the public has been
9 duped, right? I mean, I think there have been a
10 lot of people who have been negatively impacted
11 by that. I cannot defend allowing the utilities
12 to continue charging for something for which the
13 customer will never get a benefit and they
14 clearly are going to abandon. I don't know how
15 to defend that, and I think the General Assembly
16 does have the authority to stop that collection
17 of rates going forward.

18 I don't think we could go back
19 and make them refund the money they've
20 collected, and there are going to be a lot of
21 people that don't like that, right, because I
22 paid a lot of money. I'm one of the customers.
23 I've paid a lot of money towards that project
24 that I'm never going to get back. But going
25 forward, I think the General Assembly has got

1 the authority to do that.

2 But, however, I do think that's
3 something -- that issue specifically is one that
4 the subcommittee ought to really look at, is the
5 legality of doing what we ought to do because,
6 again, I don't want to create unrealistic
7 expectations in the public, right, and I think
8 we've done that in many things. I mean, I think
9 some of the information that's come out -- and
10 the Senator from Fairfield is probably not going
11 to like this -- but I think there has been an
12 expectation that's been created that there's a
13 possibility of completing these reactors, and in
14 the near term, I don't think that's a
15 possibility. But I do think that, as the
16 ultimate rate maker, as the courts have
17 recognized, that the General Assembly has the
18 ability prospectively to say you cannot charge
19 those rates for that project.

20 SENATOR HUTTO: All I'm saying is
21 that that might be true, but it deserves to be
22 heard in a forum where both sides can be argued,
23 and I don't think that happens in this
24 environment and this setting. And I think they
25 should be able to brief it and go forward and

1 let -- and if you want to, for this particular
2 case, the uniqueness of this case, assign that
3 obligation to the Supreme Court to appoint a
4 special referee and to hear it that way as
5 opposed to the PSC, or send it to the PSC, I
6 just believe that if -- there may be a very good
7 case to prove that they were duped, and of
8 course that's what some of the lawsuits may be
9 getting into.

10 The question about whether they
11 are justified in any of these rates going
12 forward is a question that deserves to be heard.
13 I just don't think that passing a law and
14 setting it is the way to do it. I'm just saying
15 it should be heard in an appropriate forum, and
16 whether that's the PSC or whether it's in the
17 court system, but it gives everybody --
18 consumers, shareholders, interested parties --
19 the right to come forward, intervene in the
20 action, and be heard. I don't believe -- while
21 I'd like to say that that's the ways laws are
22 passed, I just believe, on a matter that's this
23 complicated, it needs to be heard in a different
24 forum.

25 CHAIRMAN MASSEY: Should they be

1 allowed to continue collecting for an abandoned
2 project?

3 SENATOR HUTTO: If I was, you
4 know --

5 CHAIRMAN MASSEY: But isn't that
6 a policy question?

7 SENATOR HUTTO: I mean, I'd want
8 to hear the other side of the argument. I mean,
9 on the surface of it, it sounds like, if the
10 money they continue to collect is for something
11 they're not going to use it for and they're
12 collecting the money for something different,
13 that doesn't ring right to me.

14 CHAIRMAN MASSEY: well, I think
15 they'll -- I mean, even if you look at the
16 proposal that came out last week, I mean,
17 they'll find something to spend the money on.

18 SENATOR HUTTO: well, I think you
19 can't lose sight of the fact that we are a
20 growing state. I heard a statistic yesterday,
21 50 new people a day are either moved to or are
22 born in Charleston County. So I mean, we're
23 going to have continuing power needs.

24 CHAIRMAN MASSEY: No question
25 about that.

1 SENATOR HUTTO: And so you could
2 argue that they need to go back in front of the
3 PSC that they need more rates for expansion
4 rather than allow them to use the rates they've
5 already collected to do the expansion that
6 apparently they're going to need.

7 CHAIRMAN SETZLER: But they could
8 do that even if this passed.

9 SENATOR HUTTO: I mean, I guess
10 they could. I just -- I mean, again, I think
11 this is an area where we're trying to hold out
12 to the public that we're going to do something
13 when we are ill-equipped to do that. I just
14 think the forum is not -- that our forum is not
15 the right forum for that. I really don't
16 believe that, and I don't know that you wouldn't
17 still get a takings argument from them if we did
18 this. I think if you sent them back and made
19 them justify it and let everybody have a hearing
20 on it that that's a different issue.

21 CHAIRMAN SETZLER: Senator from
22 Fairfield.

23 SENATOR FANNING: All right, just
24 a couple of quick points. Number one, when we
25 say we'll never get anything back from the

1 reactors, Senator from Edgefield -- and I'll
2 only briefly --

3 CHAIRMAN MASSEY: I won't say
4 never, but --

5 SENATOR FANNING: -- unless you
6 finish the reactors, is that there is that way.
7 And I won't go down the rabbit hole, but we've
8 moved heaven and earth for a \$1.8-billion
9 investment at BMW and 1200 jobs. We've moved
10 heaven and earth for a 1.3 -- with \$1.3 billion
11 in tax credits to get Boeing here for 3,000
12 jobs. We've got a \$9.5-billion investment and
13 twice as many jobs as either of those combined
14 to do something that Georgia is finishing, and
15 they had the same Westinghouse go bankrupt that
16 we had go bankrupt. They're at the exact same
17 point. They had a little more ineptitude and
18 mismanagement and evil doings by a company, I'll
19 give you that, but looking at bricks and mortar,
20 looking at the exact same equipment being used,
21 the exact same contractors being used -- and I
22 promise I'll shut up because you've promised me
23 another meeting on Christmas Eve that we can
24 talk about that.

25 But I do want to make sure that,

1 if we're sending a message that, yes, it
2 impossible that ratepayers are going to be able
3 to get dime for dime of their money back because
4 there is not enough without bankrupting SCANA,
5 which is not a worry of mine whatsoever, but
6 there is a way we could do it by giving them the
7 reactors, and they get something for their
8 investment.

9 The second thing is, we talk
10 about changing the rules. They were the ones
11 that changed the rules. SCANA's the one that
12 changed the rules. SCANA, unlike Santee Cooper,
13 SCANA can't just decide to increase rates.
14 Santee Cooper can just decide to increase rates,
15 but SCANA had to go before the PSC, and they had
16 to argue for a rate increase, and when they
17 argued a rate increase, they specifically said,
18 If you give us this rate increase, we will build
19 two reactors.

20 And Senator from Edgefield
21 mentioned the multiple pots of money. It is
22 abominable that for ten years they took money
23 from us to do something that they weren't
24 delivering on. But the only thing worse than
25 that is continuing to do that today. And so

1 having rates, Senator from Orangeburg, that are
2 18 percent higher that were requested of the PSC
3 solely for the purpose of building reactors that
4 they are now purposefully and publicly
5 abandoning, they're the ones that are quitting
6 on the rules that they chose to play in the
7 game.

8 And the last thing, the only
9 thing that worries me about going to the PSC,
10 Senator from Orangeburg, is, if we don't change
11 the parameters that PSC works with, I would be
12 worried that PSC wouldn't be able to look out
13 for us. Remember, even though SCANA raised
14 rates nine times in ten years, the PSC approved
15 nine rate increases in ten years. And so I
16 worry about that.

17 SENATOR HUTTO: Well, I'm taking
18 into account that, if we sent it there, we'd
19 send it to them with new rules.

20 SENATOR FANNING: Absolutely.

21 CHAIRMAN SETZLER: All right,
22 Senator from Dorchester.

23 SENATOR BENNETT: Thank you, Mr.
24 Chairman. This is the crux of the matter,
25 right? This is what we've been talking about

1 for months now, and this is the one thing that I
2 hear from constituents more and more whenever I
3 talk to them: Don't let them raise my rates.
4 Right?

5 And I hear the Senator from
6 Orangeburg, and I hear the Senator from
7 Edgefield, and I struggle because I agree with
8 both of them at different times. The reality is
9 -- and I think when we talk about setting
10 people's expectations, I think we need to be
11 open and honest. Well, there's a lot of
12 political dancing going on here, there's a lot
13 of showboating going on here, and there's a lot
14 of everything going on here. But the way that
15 the economics work is we've got two entities
16 that both charge rates that have sunk \$9.5
17 billion dollars, and once you spend that dollar,
18 not only do you lose that dollar, particularly
19 if you're not finishing the projects, not only
20 do you lose that dollar, but you lose the
21 opportunity cost of that dollar.

22 So for us to sit here and tell
23 people that we are going to prevent SCANA or
24 Santee Cooper from raising their rates is a load
25 of bull. People's rates are going to go up from

1 this point forward. If we wave a magic wand and
2 say you cannot raise rates on this specific
3 nuclear project, I get it. But those rates will
4 go up at some point in the future because of
5 just the operational costs of the utilities.

6 I want people to understand that
7 there is no way that this General Assembly is
8 going to tell you that your rates are not going
9 up. We may ultimately tell you they're not
10 going up tomorrow, but a year from now, two
11 years from now, five years from now, they're
12 going up because that money has been wasted.
13 And I think we do people a disservice when we
14 don't share with them that we certainly
15 understand where they're coming from, that SCANA
16 did them wrong, that Santee Cooper did them
17 wrong, that this General Assembly did them
18 wrong, and our regulatory system did them wrong,
19 but at the end of the day, there's nothing we
20 can do to get that money back. It's spent.
21 It's done.

22 Now, to the Senator from
23 Fairfield's point of view, there is a way to
24 save some of that. I don't know if that's a
25 viable option, but that's the only way to tell

1 people that their rates are not going to go up,
2 is if that's generating something that they've
3 invested in.

4 I say all that. When it gets
5 time for the motion, I will probably be the one
6 that says I agree with the Senator from
7 Edgefield's motion and we should prevent them
8 from doing that, but the reality is the rates
9 are going up, and we've got to be fair with
10 people.

11 CHAIRMAN SETZLER: Okay. Anybody
12 else want to be heard? Senator from Edgefield,
13 did you make a motion?

14 CHAIRMAN MASSEY: No, but I will.
15 And let me follow up just real quick to respond
16 to that and just say this. I think you're
17 absolutely right, and I think it's important
18 that you tell people that. And I guess -- I
19 don't mind being charged for something that I'm
20 getting, right, and so if -- and I think Senator
21 Hutto's right. We've got growth. We're going
22 to need new generation, especially on SCE&G. I
23 don't know about as much on Santee Cooper, but
24 SCE&G needs more power generation. Charge me
25 for that. But I have difficulty being charged

1 for something that I'm not going to get. But in
2 any event --

3 SENATOR SCOTT: (INDISTINCT)

4 CHAIRMAN MASSEY: Sure.

5 SENATOR SCOTT: Before we take
6 this vote, there's a lot of conversation about
7 selling Santee Cooper, and let's suppose, at
8 some point, we end up selling Santee Cooper. We
9 already know that, on the \$4.4 billion that we
10 do have out, that just forget about the other
11 assets because it could be sold by two different
12 companies. The reactor is one part, and the
13 remaining of whatever it's worth, minus the 70
14 percent that the co-ops actually paid a
15 liability on.

16 And let's say those reactors are
17 sold for 25 cents on the dollar, which is \$1.1
18 billion, and SCANA agreed to do it, and maybe
19 SCANA might end up being the company to pay the
20 one point and agree to what the Senator from
21 Fairfield County has been saying for a long
22 time, agree to buy it for 25 cents on the
23 dollar, agree to put the rest of the money in
24 there, because our savings on buying them at 25
25 cents on the dollar is \$3.3 billion. And with

1 that and maybe another billion dollars, we can
2 finish the reactor.

3 where are we then if we decide to
4 reduce the rates? Do we come back and we put
5 the rates back in place because they're going to
6 finish the reactors?

7 CHAIRMAN MASSEY: well, I think,
8 at that point, then they go back through that
9 process with the Public Service Commission in
10 order to --

11 SENATOR SCOTT: well, the reason
12 why I ask that question, because we have --
13 Senator Hutto brought up some good points. We
14 are still trying to evaluate the value of the
15 company. The Governor's Office is downstairs
16 trying to get a value for Santee Cooper. And
17 we're today talking about if we pull the
18 trigger. Does that affect the whole outcome by
19 reducing the rates at this point? Because the
20 rates are not there, the probability then of
21 finishing the company is completely gone. Do we
22 diminish the opportunity for another company who
23 will be looking at buying that company and maybe
24 becoming either a participant/partner, or either
25 SCANA picking up the rest of what it's got out

1 there? How does this snowball? Does it create
2 a bigger problem for us to make that decision at
3 this point, or are we ready to make a decision
4 at this point?

5 All of the repossessed properties
6 I've bought in my lifetime, and I've bought a
7 lot of them, very few new construction. New
8 constructions cost too much, unless you find a
9 deal that you can buy basically pennies on the
10 dollars. And I do know if you sold this project
11 with that many unknown, you're not going to get
12 dollar on the dollar. I've never seen it happen
13 in any type of repossessed. So it's going to be
14 probably sold on a percentage of the dollar,
15 which creates a market to be able to finish this
16 project.

17 what do we do then? We've
18 already taken the rates off the table. We've
19 already diminished the opportunity for a new
20 company coming in. I just want to be careful.
21 I don't want to change your mind or your thought
22 pattern, where you're going, but I do want to
23 add to the back of your mind and you think this
24 thing all the way through before we immediately
25 make an immediate decision based upon all these

1 other moving parts we have out there. Thank
2 you, Mr. Chairman.

3 CHAIRMAN SETZLER: Senator from
4 Fairfield.

5 SENATOR FANNING: And Senator
6 from Richland, I have been very worried about
7 just that, is will we take some action that is
8 making sense in the current situation that might
9 impact us down the road. But two things. One,
10 I believe the Senator from Edgefield's motion
11 really is just pertaining to this particular
12 company that has abandoned its plans and we
13 would no longer allow that, and we would have to
14 revisit that when a new company comes in.

15 Second is, most of the companies
16 that are right now looking at South Carolina and
17 getting themselves involved are worth between
18 100 and 200 billion dollars, much more than the
19 9 billion dollars that SCANA was valued at, at
20 some point. And when you're worth that much
21 money, you can take some short-term loss to know
22 that you're going to get value over 80 years in
23 looking at the long ball. So I think I -- in
24 talking with folks that are looking at South
25 Carolina, they don't seem to be worried as much

1 about that because they know they would have to
2 come before the PSC and make their own request
3 from scratch to finish the job.

4 SENATOR SCOTT: Mr. Chairman?

5 CHAIRMAN SETZLER: Yes, sir.

6 SENATOR SCOTT: Although that may
7 be true, companies don't spend billions of
8 dollars unless they make billions of dollars.

9 SENATOR FANNING: Right.

10 SENATOR SCOTT: I mean, that's
11 always been the concept. So whether they buy it
12 at 50 cents on the dollar or they buy at 25
13 cents on the dollar, they're looking at market
14 share. There's about 700,000 customers out
15 there too. So they would not be just looking at
16 the reactor. They'll take a loss on the reactor
17 and make it back up on the company. But, again,
18 I just want to be careful that we don't crumble
19 this thing in the middle of folk trying to
20 figure out the best angle to try to get us out
21 of it. Thank you.

22 SENATOR FANNING: Absolutely
23 true. A smaller, less valuable company is going
24 to need to be able to get some money quickly to
25 make sure they don't go under, so to speak. If

1 you're worth \$200 billion, you can think about
2 the money you're going to collect over the 80-
3 year life span of two reactors and know that
4 you'll be able to recoup those dollars. Whereas
5 if you're a company that's worth \$9 billion,
6 you're worried about being able to make payroll,
7 and that loss seems a whole lot greater. A
8 \$9.5-billion investment that make take, who
9 knows, however many billions left to complete,
10 if it was 6 billion or 9 billion more to
11 complete, that's scary, Senator from Richland
12 from a company worth 9 billion. If the
13 company's worth \$200 billion, whether it costs 6
14 billion or 8 billion to complete, they're able
15 to look at distributing that loss and making up
16 that revenue over 80 years rather than in the
17 next two months.

18 SENATOR SCOTT: (INDISTINCT)

19 CHAIRMAN SETZLER: Okay, the
20 Senator from Edgefield made a motion that the 18
21 percent being charged by SCANA and the 4 point
22 whatever it is -- 4.3 percent being charged by
23 Santee Cooper, going forward, be disallowed, and
24 it was seconded. Any further discussion?

25 UNIDENTIFIED SPEAKER:

1 (INDISTINCT)

2 CHAIRMAN SETZLER: The Senator
3 from Fairfield seconded it. Any further
4 discussion? All those in favor, raise your
5 right hand. All opposed. Okay. Five-three.
6 All right, Senator from Edgefield.

7 CHAIRMAN MASSEY: Mr. Chairman,
8 since we're on that topic, we talked about this
9 a little bit, but the House has a bill to
10 require refunds, and there was some conversation
11 here about that. I'll bring that out. Is
12 anybody interested in moving forward on that?

13 CHAIRMAN SETZLER: I thought you
14 were going to ask the subcommittee --

15 CHAIRMAN MASSEY: Yeah,
16 (INDISTINCT).

17 CHAIRMAN SETZLER: Okay.

18 CHAIRMAN MASSEY: All right, the
19 other thing is, I wanted to mention, the
20 President Pro Tem asked us to just mention that
21 there is -- President Pro Tem is going to
22 introduce a bill to require that -- for the
23 Santee Cooper folks, this is really something
24 for y'all to pay attention to -- that the
25 Toshiba money that's being received by Santee

1 Cooper not be spent.

2 CHAIRMAN SETZLER: Be held in
3 escrow?

4 CHAIRMAN MASSEY: Yeah, escrow or
5 whatever, but they not spend that money, just to
6 maintain the status quo until the General
7 Assembly figures out what we want to do with
8 Santee Cooper going forward. And he asked that
9 we notify everybody that that bill's coming just
10 so as not to surprise folks. I think just don't
11 want to pre -- just kind of keep the status quo
12 with that money and not prejudice one thing one
13 way or another. But I know there are plans from
14 the Santee Cooper board to maybe act on that,
15 and sometime next month, there's going to be a
16 bill prefiled to stop that, so.

17 UNIDENTIFIED SPEAKER:

18 (INDISTINCT)

19 CHAIRMAN MASSEY: Okay, we can do
20 that if you want. Is there any objection to the
21 committee supporting that?

22 CHAIRMAN SETZLER: Okay, have a
23 motion and a second to support that. Any
24 discussion? All in favor, say aye.

25 (COMMITTEE MEMBERS AFFIRM)

1 CHAIRMAN SETZLER: All opposed,
2 no, and the ayes have it.

3 CHAIRMAN MASSEY: All right. All
4 right, is there any other -- are there any other
5 ideas on rates that members of the committee
6 wanted to talk about? No? All right, then, Mr.
7 Chairman, let's move on to the Base Load Review
8 Act specifically, and we've talked about that
9 some around the edges some, and I know the
10 Senator from Richland has brought that up a
11 couple times today. But there have been some
12 suggestions that we just repeal it outright.
13 There have been suggestions that it be amended
14 to some degree. So I'll throw that out for the
15 committee's consideration right now. What's the
16 thoughts on it?

17 CHAIRMAN SETZLER: Senator from
18 Richland.

19 SENATOR SCOTT: I think why
20 there's so much quietness in the room, because I
21 think this is the only public-private
22 partnership we've had to kind of go through to
23 try to make that decision whether or not you
24 repeal it out.

25 I do think some additional

1 oversight and coming back to the General
2 Assembly for an annual report is important so we
3 actually know what's actually going on. And I
4 know the PSC commission, they appear to them
5 when they want rate increases, but like all
6 other entities and agencies, since the private
7 sector decided it is going to be a partner in
8 the public sector, there should be some type of
9 a review process that they come back annually,
10 and it should have been all the way through from
11 2008 to the present, came back to at least give
12 us information on the impact to see whether or
13 not, coming back before a joint committee,
14 whether there are things that we could have
15 picked up on early on and asked some very tough
16 questions so we would not actually be at this
17 point today.

18 CHAIRMAN MASSEY: I think there
19 is, under the Base Load Review Act, there is a
20 requirement that there at least be some type of
21 an annual report made to the PSC.

22 SENATOR SCOTT: I understand
23 that. I said PSC, but not to us.

24 CHAIRMAN MASSEY: Yeah, not to
25 us.

1 SENATOR SCOTT: Yeah.

2 CHAIRMAN MASSEY: To the PSC.

3 SENATOR SCOTT: Right.

4 CHAIRMAN MASSEY: And I don't
5 know how detailed that is, but there's some
6 requirement there, but I understand your -- is
7 there interest in the committee to recommend
8 repealing the Base Load Review Act?

9 SENATOR FANNING: Yes, I would
10 be. No one wants to see this project completed
11 more than I do, but I think, for the sake of the
12 fact that the Base Load Review Act played a
13 critical role in allowing this to happen, I
14 think if we have to start from scratch when we
15 get a new investor in here, I think that's a
16 wiser thing to do than to allow something to
17 continue that was really the crux of the problem
18 that we've had.

19 SENATOR SCOTT: Again, Mr.
20 Chairman, I want us, until we finish this
21 process and actually know what the end result is
22 going to be -- because that partner could end up
23 being a 25-30 percent partner with Santee Cooper
24 and agree to spend beyond -- as my colleague
25 from Fairfield County said, the Base Load Review

1 Act then puts them completely out of the game.
2 The possibility of them being able to even have
3 any control of the power going forward in the
4 future goes out of the window. I would probably
5 want to just wait to see what this ending
6 process is before we appeal it. But I don't
7 have a problem amending it and with the cleanup
8 revision I talked about earlier and to also wait
9 to see if there are other provisions we need to
10 also add to it.

11 The other part is the review
12 process with the Public Service Commission,
13 whether or not we amend it to make sure Santee
14 Cooper and any other public entity who's
15 participating in this process also participate
16 in this review process, also, with the Public
17 Service Commission and not just the private
18 sector.

19 CHAIRMAN MASSEY: Right, and I
20 think we adopted your recommendation on that
21 earlier. Well, let me -- then let me -- you
22 brought this up. Let me ask you this. You
23 suggested amending the Base Load Review Act
24 rather than repealing it. What amendments would
25 you recommend that we consider?

1 SENATOR SCOTT: The first is the
2 PSC commission review from the public sector,
3 they be treated the same before the PSC
4 commission as the private sector since they're
5 participating under the act. That's number one.
6 The other part, there is an annual review
7 through a joint committee back to the General
8 Assembly as long as the project is ongoing, and
9 so we get a chance to ask these type of
10 questions not after something else has happened.
11 Those are the two things just right off the top
12 of my head that I've got the biggest concern
13 about.

14 CHAIRMAN SETZLER: So I guess my
15 question is -- and no offense to the Senator
16 from Fairfield -- but why do you need to keep
17 the Base Load Review Act? What is the benefit
18 of keeping it? Senator from Dorchester.

19 SENATOR BENNETT: Thank you, Mr.
20 Chairman. I don't know that I'm going to answer
21 that question, the benefit of keeping it, but I
22 will share with you my thoughts and why I kind
23 of lean towards maybe delaying this decision on
24 what to do with the Base Load Review Act, and it
25 really kind of comes down to a couple of

1 components.

2 So for me, as I sit here, my
3 first thought is the one project that the
4 General Assembly created the Base Load Review
5 Act appears to be dead. If it is to come back
6 to life from some other entity, does the Base
7 Load Review Act, repeal of that, immediately put
8 that in jeopardy? In other words, is there an
9 entity out there, unbeknownst to us, running
10 numbers in their mind, thinking about whether or
11 not it makes sense to come forward and make that
12 an option, and by repealing the Base Load Review
13 Act, does that harm that process? I don't mean
14 to say that to give any indication that I know
15 of any entity. I do not.

16 The other piece, and it's kind of
17 closely related, I could certainly see,
18 envision, based on what we've been dealing with
19 over the past months, having a real, legitimate
20 discussion about deregulation, opening up the
21 generation markets in South Carolina so that we
22 don't have these monopolies. But I also
23 recognize that, if you enter that into the mix
24 right now, any ideas going on of any potential
25 sale of any entity, whether it's the right thing

1 or the wrong thing to do, would throw that into
2 a tizzy.

3 So for those two reasons, again,
4 I find both of those issues very attractive to
5 discuss, but I recognize the timing of which is
6 just not appropriate for a lot of reasons. So,
7 again, while I would probably, if pushed, be in
8 favor of repealing the Base Load Review Act,
9 because the project that it was designed for is
10 no longer there, I don't want to cause any
11 unintended consequences of improving our
12 situation down the road. That doesn't mean a
13 month from now, when we get these valuations in
14 place, if it takes that long or however long it
15 takes, my view might not change.

16 CHAIRMAN SETZLER: Well, Senator,
17 the only question I would ask, and this may be
18 for staff, could you repeal it except for any
19 project which was begun prior to --

20 SENATOR BENNETT: Prospectively.

21 CHAIRMAN SETZLER: -- 2011 or
22 2010 or whatever.

23 SENATOR ALEXANDER: Mr. Chairman?

24 CHAIRMAN SETZLER: Senator from
25 Oconee and then the Senator from Williamsburg.

1 SENATOR ALEXANDER: That's where
2 I was going. I think we ought to just repeal it
3 for any new project with the intent, with the
4 understanding that if it helps us with the
5 current project to get it built, but also maybe
6 amend it about any bad acts or anything of that
7 nature. Then that way, I think, at least at
8 this point of the game, it helps us going
9 forward from that standpoint.

10 CHAIRMAN SETZLER: Okay, Senator
11 from Williamsburg.

12 SENATOR SAAB: Thank you, Mr.
13 Chairman. I tell you, I feel like I'm speaking
14 against wisdom when I listen to the Senator from
15 Oconee talk, but I was, and basically still am,
16 lockstep with the Senator from Dorchester, you
17 know, thinking that -- I don't see what delay
18 hurts. And I think a part of what we're doing
19 is creating a scenario where there is additional
20 vetting about what we're going to do through our
21 subcommittee process and the like. I would just
22 hesitate for us to just do a wholesale repeal,
23 although the suggestion from the Senator from
24 Oconee is, I think, less damaging than the
25 notion of just an outright repeal. But I

1 caution us to move a little slower on the issue
2 of repeal.

3 CHAIRMAN SETZLER: Yeah. Now,
4 the Senator from Oconee also has mentioned
5 another issue, and that's excluding bad acts,
6 recovery for bad acts. Senator from Edgefield.

7 CHAIRMAN MASSEY: Mr. Chairman,
8 my thought -- well, a few points. The first one
9 would be I think that the main argument for not
10 delaying it too long, a decision on it too long,
11 is that -- well, first of all, there are two
12 projects that have been done under the Base Load
13 Review -- at least begun under the Base Load
14 Review Act. There could be applications filed
15 tomorrow to recover abandonment costs under the
16 Base Load Review Act, and currently the law
17 allows for that, right, and I think we have to
18 consider that, as to whether we believe that's
19 good policy or not going forward.

20 I think -- personally, I would
21 just support just repealing the whole thing.
22 But if we're not going to do that, I think what
23 the Senator from Oconee suggested about at least
24 just cap it at these two projects -- but it
25 seems to me that, even if you do that, that

1 there still probably ought to be some
2 amendments. I think we ought to sever the
3 abandonment provision, recovery of abandonment
4 provision, even for the existing projects.
5 That, to me, seems to be the most offensive part
6 of the law.

7 I think, if we're going to keep
8 it, I think we ought to flip the burden back to
9 the way that it was traditionally, whereas, in
10 the traditional case, the utility who's asking
11 for approval for something, they have the burden
12 of proving that that is prudent. With the Base
13 Load Review Act, once you get the initial
14 approval, then it's on the opponents to prove
15 that it's imprudent. And so I think, if you're
16 going to keep it going forward, you at least
17 ought to put the burden on the people who are
18 asking for additional rates or whatever else,
19 some type of approval, to prove that what
20 they're wanting to do is the prudent course of
21 action.

22 I do like the Senator from
23 Oconee's suggestion about having an exclusion
24 for bad acts. I mean, that kind of gets --
25 hopefully, we address that with some of the

1 other stuff by requiring ORS to have access to
2 everything, which would then ensure that, in an
3 advocacy type scenario, the information is going
4 to come out at that point. But it does make
5 sense that the PSC has some authority to maybe
6 change a decision or whatever because of bad
7 acts.

8 But it does seem to me that, if
9 we're going to keep it, I would at least like to
10 see us cap it at the existing projects, cut off
11 the abandonment -- recovery of abandonment
12 expenses provision, and flip the burden so that
13 those folks have to prove it rather than making
14 the citizens prove it.

15 SENATOR SCOTT: Who's the second
16 project?

17 CHAIRMAN SETZLER: It's Duke at
18 Cherokee.

19 CHAIRMAN MASSEY: Yeah, there's a
20 project up in Cherokee.

21 CHAIRMAN SETZLER: Now, I'm not
22 sure whether they ever put any capital --

23 SENATOR SCOTT: My understanding
24 of the thing with Duke was just sent a request,
25 but that's as far as they've gone in spending

1 for quite some time.

2 CHAIRMAN MASSEY: They haven't
3 gone not nearly as far. I mean, they haven't
4 started con --

5 SENATOR SCOTT: Doing anything.

6 CHAIRMAN MASSEY: Yeah.

7 CHAIRMAN SETZLER: No.

8 SENATOR SCOTT: Okay. So you
9 really can cap that, as well, because it's not
10 in process.

11 CHAIRMAN SETZLER: Right.

12 CHAIRMAN MASSEY: I do think that
13 they -- and we haven't really looked at that --
14 I think that they've decided to --

15 SENATOR SCOTT: Abandon it?

16 CHAIRMAN MASSEY: -- abandon what
17 they've done.

18 SENATOR SCOTT: Okay.

19 CHAIRMAN MASSEY: I mean, it's a
20 much, much smaller --

21 SENATOR SCOTT: Project.

22 CHAIRMAN MASSEY: But on
23 principle, it's the same principle that we've
24 been talking about.

25 SENATOR SCOTT: So, basically,

1 we're really focused on really one project.

2 CHAIRMAN MASSEY: That's right.

3 SENATOR SAAB: But the severance,
4 we couldn't do that retroactively, could we?

5 CHAIRMAN MASSEY: You're talking
6 about disallowing abandonment costs?

7 SENATOR SAAB: Abandonment costs,
8 yeah.

9 CHAIRMAN MASSEY: I think you
10 probably -- well, if you go back, if you look at
11 the Attorney General's opinion -- I don't know
12 that I agree with all of it on this subject, but
13 you look at -- the overall conclusion that I
14 drew from that is that the General Assembly is
15 the ultimate rate maker and that we could
16 disallow, going forward, the ability to recover
17 those costs. I mean, I think that issue -- the
18 question you raised, I think, is a valid one
19 that needs exploration, but I think we could at
20 least pursue trying to do that, and if we get
21 opinions to the contrary that says, Look, you
22 can't do this, then whatever. But from what I
23 hear from people, at least initially, that's
24 what really set the public off.

25 SENATOR SAAB: Sure.

1 CHAIRMAN MASSEY: Right, and as I
2 said earlier, I think that was the most
3 offensive part. And, I mean, I could pick
4 different pieces of that legislation, right?
5 That one is probably the most offensive part of
6 it.

7 CHAIRMAN SETZLER: Okay.

8 UNIDENTIFIED SPEAKER:

9 (INDISTINCT)

10 CHAIRMAN MASSEY: well, if -- it
11 all depends on what they get in return.

12 CHAIRMAN SETZLER: Senator from
13 Fairfield.

14 SENATOR FANNING: (INDISTINCT)

15 CHAIRMAN SETZLER: Okay, state
16 your --

17 SENATOR FANNING: I move that we
18 repeal the BLRA to any new project, capping at
19 existing projects; that we amend the Senator
20 from Richland's two things: number one, treating
21 public as private -- we described that earlier -
22 - and also the annual review process to the
23 General Assembly as well as the PSC -- those
24 were his earlier ones; that, three, we flip the
25 burden -- right, Senator from Edgefield? -- we

1 flip the burden from the company to prove
2 prudent; four, exclusion of bad acts; and five,
3 cut off abandonment costs going forward, and we
4 could say subject to staff advising us.

5 CHAIRMAN MASSEY: I would have
6 cut off recovery of abandonment costs, period.

7 SENATOR FANNING: Period, all
8 right. I --

9 SENATOR SCOTT: (INDISTINCT)

10 CHAIRMAN SETZLER: Okay.

11 SENATOR SCOTT: (INDISTINCT)

12 CHAIRMAN SETZLER: Hold on. Hold
13 on. Senator from Fairfield.

14 SENATOR FANNING: I accepted that
15 as a friendly amendment.

16 CHAIRMAN SETZLER: No, sir. Do
17 you include that in your amendment?

18 SENATOR FANNING: I include that
19 in my amendments. What I meant is -- I
20 stuttered.

21 CHAIRMAN SETZLER: All right,
22 you've heard his amendment.

23 SENATOR FANNING: Absolutely.

24 CHAIRMAN SETZLER: You've heard
25 his amendment. Is there a second?

1 CHAIRMAN MASSEY: Second.

2 CHAIRMAN SETZLER: All right,
3 discussion? Senator from Richland.

4 SENATOR SCOTT: I'm just --

5 CHAIRMAN SETZLER: I'm just
6 trying to keep it in a proper order.

7 SENATOR SCOTT: And I appreciate
8 that, Mr. Chairman. I think we did good, and I
9 think we had a very good document. I'm just
10 worried about us trying to pass something in
11 statute that we try to repeal something that's
12 cost-related to a project that's already out
13 there. I think we're going to find ourselves,
14 if we pass this, we're going to find ourselves
15 having to pick up the cost through a lawsuit.
16 Anything we're trying to retroactive on a
17 project that's already that far down the road.
18 So that's the only thing that gives me
19 heartburn. All the other parts of it, I thought
20 was pretty good. I would prefer to, if this
21 pass and you want to offer an amendment to it,
22 let's just choose up or down. If it passes, it
23 passes, the last change you made on it, on the
24 friendly amendment.

25 CHAIRMAN SETZLER: He made the

1 change. Senator from Edgefield -- his motion
2 included --

3 SENATOR FANNING: My motion
4 included --

5 CHAIRMAN SETZLER: -- total
6 deletion of abandonment.

7 SENATOR FANNING: -- total
8 deletion of abandonment costs.

9 CHAIRMAN SETZLER: Okay. Any
10 other discussion? Hearing none, all those in
11 favor of the motion as stated, raise your right
12 hand. All opposed? Okay, the motion carries.

13 UNIDENTIFIED SPEAKER:
14 (INDISTINCT)

15 CHAIRMAN SETZLER: All right.

16 CHAIRMAN MASSEY: All right.

17 SENATOR SCOTT: Mr. Chair? I
18 want to go back to the -- to your portion of the
19 motion again. would you restate that portion of
20 your friendly motion, your friendly motion that
21 you had to this motion?

22 CHAIRMAN MASSEY: Right, just to
23 -- okay, we're repealing the Base Load Review
24 Act going forward for any new projects, but even
25 for existing projects, disallowing abandonment

1 costs.

2 SENATOR SCOTT: I'd like to vote
3 on the abandonment costs by itself, although
4 it's past it, and not to include that in the
5 previous motion.

6 CHAIRMAN SETZLER: Senator, we've
7 adopted this motion.

8 SENATOR SCOTT: I understand.

9 CHAIRMAN SETZLER: If you want to
10 move to strike that portion, then do so.

11 SENATOR SCOTT: I move to strike.

12 CHAIRMAN SETZLER: Okay, you want
13 to strike the abandonment portion as to current
14 projects.

15 SENATOR SCOTT: That's correct.

16 CHAIRMAN SETZLER: Is there a
17 second?

18 UNIDENTIFIED SPEAKER: Second.

19 CHAIRMAN SETZLER: And a second.
20 Any discussion? Hearing none, all those in
21 favor, raise your right hand. All opposed,
22 raise your right hand. Okay. All right, next
23 --

24 SENATOR SCOTT: What's the vote?

25 UNIDENTIFIED SPEAKER: Five-

1 three.

2 SENATOR SCOTT: I'm satisfied
3 with it.

4 CHAIRMAN SETZLER: Next item on
5 the agenda.

6 UNIDENTIFIED SPEAKER:
7 (INDISTINCT)

8 CHAIRMAN SETZLER: Don't leave
9 us, Senator.

10 CHAIRMAN MASSEY: All right, was
11 there --

12 CHAIRMAN SETZLER: Don't leave
13 us, Senator.

14 CHAIRMAN MASSEY: Was there
15 anything else to --

16 CHAIRMAN SETZLER: We're getting
17 close.

18 CHAIRMAN MASSEY: I think we've
19 probably -- we've exhausted everything on Base
20 Load Review Act, right?

21 CHAIRMAN SETZLER: Correct.

22 CHAIRMAN MASSEY: I want to make
23 sure we've discussed all that stuff. All right.
24 All right, so the next thing that we had on our
25 notes was dealing with the Public Utility Review

1 Committee. We've talked some about the Review
2 Committee's process of screening candidates for
3 the PSC, screening nominees for the Santee
4 Cooper board. We've talked about it just
5 tangentially, but also its role in selecting the
6 executive director of ORS. And it may be
7 helpful, Mr. Chairman, if staff could just give
8 us a breakdown as to what the roles are, what
9 the membership is, and then if people have
10 questions, concerns about that, then we could --

11 CHAIRMAN SETZLER: Either staff
12 or the members of the PURC committee, either
13 one.

14 SENATOR ALEXANDER: Mr. Chairman?

15 CHAIRMAN SETZLER: Sure.

16 SENATOR ALEXANDER: As far as the
17 makeup of the committee, it's ten members, three
18 appointed -- three of whom shall be members of
19 the House of Representatives, including the
20 Chairman of the Labor, Commerce, and Industry,
21 or his designee; three of whom shall be members
22 of the Senate, including the Chairman of the
23 Judiciary Committee, or his designee; two of
24 whom shall be appointed by the Chairman of the
25 Senate Judiciary Committee from the general

1 public at large; two of whom appointed by the
2 Speaker of the House of Representatives from the
3 public at large. The Speaker of the House of
4 Representatives shall also determine how its
5 legislative members shall be selected. The
6 Chairman of the Senate Judiciary Committee shall
7 select the members of the Senate. So it's a
8 ten-member committee.

9 CHAIRMAN SETZLER: Okay.

10 SENATOR ALEXANDER: Four public,
11 three House, three Senate.

12 CHAIRMAN SETZLER: Okay. Do you
13 know about the process? I think the Senator
14 from Edgefield asked the process.

15 UNIDENTIFIED SPEAKER:

16 (INDISTINCT)

17 CHAIRMAN SETZLER: Yeah, both.

18 SENATOR ALEXANDER: well, the --
19 you want to take that?

20 MS. ANDERSON: (INDISTINCT)

21 SENATOR ALEXANDER: Yeah, that'd
22 be fine, yeah. Okay.

23 MS. ANDERSON: I'm going to
24 divide this up into PURC's annual evaluation
25 processes and then go into their screening

1 processes, which y'all touched upon a little bit
2 earlier today.

3 As for the annual evaluation for
4 the Public Service Commission, the PURC sends
5 out surveys in regard to each commissioner.
6 That's sent to the parties who appear before the
7 PSC within the prior fiscal year, and it
8 includes employees as well. Each commissioner
9 provides a written response to a questionnaire
10 regarding his or her professional activities
11 within the prior year. The questionnaire
12 includes matters such as participation in
13 educational programs, organizations, cases, and
14 accomplishments by the PSC. The PSC itself also
15 submits an agency performance evaluation report,
16 and there's a PURC subcommittee that holds a
17 public hearing. It reviews information provided
18 in the surveys, the commissioner questionnaires,
19 and the agency performance evaluation. It also
20 handles and reviews the PSC budget. A full
21 report is given to the full PURC committee, and
22 a report is made to the General Assembly on an
23 annual basis.

24 A similar process with the Office
25 of Regulatory Staff. A survey is sent out in

1 regard to the executive director to ORS
2 employees and the parties who had contact with
3 the ORS regarding matters within the prior
4 fiscal year. The executive director provides
5 written responses to a questionnaire regarding
6 his professional activity in the past year, and
7 there's also an overall agency performance
8 evaluation. PURC also reviews ORS's budget.
9 There is a subcommittee that handles that
10 evaluation. There is a report made to the full
11 PURC committee, and PURC, in return, makes a
12 report to the General Assembly.

13 Also, kind of related to that is
14 PURC also receives information regarding the
15 state energy plan, which is coordinated at the
16 State Energy Office, which is now under the
17 Office of Regulatory Staff.

18 And briefly to recap the
19 screening processes, the Santee Cooper Board of
20 Directors, the Governor submits an appointment
21 (BREAK IN AUDIO) the Senate. PURC screens the
22 appointee via subcommittee first, then the full
23 PURC committee. It then goes to Judiciary, and
24 then it goes to the full Senate for
25 confirmation.

1 And as for the PSC, y'all covered
2 that already in detail. Do y'all have any
3 questions about the PSC screening? Okay.

4 And then the final is for the
5 executive director of the Office of Regulatory
6 Staff. The executive director is appointed by
7 the Governor, but the appointee must first be
8 nominated by PURC. And y'all went over the
9 statutory qualifications earlier.

10 CHAIRMAN SETZLER: So they apply
11 to PURC? The executive director --

12 MS. ANDERSON: There's not --
13 there hasn't been an application process. The
14 PURC nominates a name, and Dukes Scott has been
15 the executive director since the creation.

16 CHAIRMAN SETZLER: Sure. Okay.

17 CHAIRMAN MASSEY: Mr. Scott was
18 there from the beginning, yeah, since creation.

19 CHAIRMAN SETZLER: He literally
20 was. And done a great job.

21 CHAIRMAN MASSEY: And I agree
22 with that, absolutely.

23 CHAIRMAN SETZLER: Take over just
24 a minute.

25 CHAIRMAN MASSEY: All right. All

1 right, so we've had some -- the reason that PURC
2 is on our list is because there's been some
3 interest in addressing PURC, whether we want to
4 keep PURC, whether you want to get rid of it,
5 whether we want to amend it. I mean, there's
6 clearly a need for screening of PSC candidates
7 and screening of Santee Cooper board members and
8 participating in the selection of the executive
9 director of ORS. Even if you limit ORS's
10 function to being a consumer advocate, there's
11 got to be some involvement in doing those
12 things. Whether it be this committee or the
13 standing committees, there's got to be some
14 committee that's going to have those tasks. But
15 I'm interested in what the committee thinks
16 about those things. Senator Hutto.

17 SENATOR HUTTO: I think you hit
18 the nail on the head. Somebody's got to do the
19 screening, and I think the PURC committee is --
20 and whether you call it that or call it
21 something else, there needs to be a committee
22 that does that, and I think it does need to have
23 legislative and nonlegislative members. And
24 whether the nonlegislative members are actually
25 appointed by the legislature or appointed by the

1 governor or a combination, I think that could be
2 discussed, and whether the nonlegislative
3 members might need to come from some categories
4 so at least there's one consumer advocate and
5 one alternative energy person. I mean, you
6 could put some categories of the people that
7 would make up the PURC so that you have what
8 people may consider a well-rounded PURC.

9 But I think three senators and
10 three -- I don't think it needs to be much
11 larger than it is. I mean, three and three, and
12 then if you wanted to go from 10 to 12 and have
13 6 citizen members and 6 legislative, and if you
14 wanted to add a few Governor's appointees as
15 opposed to having the citizen members appointed
16 by the same person that's appointing the
17 legislative (INDISTINCT).

18 But whichever format you come up
19 with for a committee and whatever you call it, I
20 think the task that it's been given needs to be
21 -- somebody needs to evaluate the PSC. Somebody
22 needs to evaluate ORS. And then the process
23 we've had in place for nominating the head of
24 ORS we've never really had to use a whole lot
25 because we've had the same person that people

1 have confidence in and he's been there for a
2 while, but obviously he can't be there forever,
3 and there will be a time, and so that process
4 has not been tested over time to know whether
5 we'd get another Dukes Scott in a replacement
6 manner.

7 But I don't know that there's any
8 reason to believe that that wouldn't work, that,
9 you know, we would vet -- the committee would
10 vet people that are interested, come up with a
11 nominee; send it to the Governor; if the
12 Governor disagree, go back and vet some more and
13 send him a nominee till we got one that the
14 Governor appointed. But I imagine, before it
15 got to that point, there'd be some conversation
16 between the Governor's Office and the committee
17 as to who were acceptable candidates, and we
18 could send up three candidates and let him pick
19 one. But there's got to be some process for
20 hiring that director, and I don't think you want
21 to let PSC hire it directly. So, I mean,
22 there's not really another body out there, and I
23 don't know that we want to have it elected like
24 we do the PSC either. I think hiring somebody
25 is probably good.

1 So in short, I'm telling you, I
2 don't know that we need any wholesale changes to
3 the functioning of the PURC. There may be some
4 changes in membership or in designating that
5 some of the citizen members come from some
6 categories or maybe even have some of the same
7 qualifications just like we ask for the
8 qualifications for Santee Cooper or the
9 qualifications for PSC. Maybe we need to say
10 that members of the PURC need to have a
11 background in consumer finance, alternative
12 energy, energy, accounting, statistics, law,
13 whatever. But I can tell you that the citizen
14 members we've had so far would all have met any
15 of those sets of criteria that we might come up
16 with. It's not like we've had unengaged or
17 uninformed citizen members, you know,
18 historically.

19 CHAIRMAN MASSEY: I think if we
20 want, whether it's this review committee or any
21 other, to have -- to perform oversight, whether
22 it be of a project like V. C. Summer or
23 something else -- because, as y'all know,
24 there's been some criticism about that, then I
25 think that we need to specify that that's part

1 of the job. I mean, if that's what we want it
2 to do.

3 SENATOR HUTTO: Well, and before,
4 that was not part of the job.

5 CHAIRMAN MASSEY: Right.

6 SENATOR ALEXANDER: It's not part
7 of the job.

8 CHAIRMAN MASSEY: And so if we
9 want to criticize them for that, let's at least
10 make that part of their job duties.

11 SENATOR HUTTO: Right.

12 CHAIRMAN MASSEY: But so -- and I
13 wanted to ask a couple of questions based on
14 just questions. First, do you see value in
15 having a joint committee do those functions as
16 opposed to just through the regular committee
17 process? And secondly, if we changed the role
18 of ORS like we've talked about, the consumer
19 advocacy role, do we need that same selection
20 process for the executive director, or could it
21 just be like a gubernatorial appointment?

22 SENATOR HUTTO: For the consumer
23 advocate?

24 CHAIRMAN MASSEY: Right.

25 SENATOR HUTTO: I wouldn't be

1 opposed to that. But I would just say, I don't
2 think the House is going to give up their -- you
3 know, a lot of other nominees (INDISTINCT) goes
4 under the Senate, and this was set up so that
5 the House had input, and I don't see them going
6 along with a bill that takes that part away from
7 them, so. And there's not -- you know, judicial
8 screening is done with joint committees, so it's
9 set up on that same model. I think that we went
10 recently to a transportation committee that
11 screened people for the Highway Commission, and
12 we've used that sort of joint House and Senate
13 model, so.

14 It does require time. You've got
15 to come up here for the screenings. You've got
16 to have public hearings. So I don't think a
17 full committee -- like if you say full Judiciary
18 come up here with 24 members doing screening,
19 no, I don't think that that's preferable. I
20 think -- now, whether the committee ought to
21 have 8 people or 10 people or 12 people, I think
22 you could make arguments either way.

23 But I do think it's valuable to
24 have the citizen input, just like they do with
25 judicial screening. And so if you wanted to set

1 guidelines for the background of the citizen
2 members, I think that would be appropriate.

3 CHAIRMAN SETZLER: So, Senator
4 from Edgefield, you raised the question about
5 the consumer advocate, and I don't remember
6 whether we addressed this -- I don't think we
7 did -- how the consumer advocate is selected.
8 Is it going to be selected by the executive
9 director of ORS? Is it going to be screened by
10 what is currently PURC or a revised PURC? What?

11 CHAIRMAN MASSEY: I think we -- I
12 think what we adopted earlier was to basically
13 make ORS the consumer advocate.

14 CHAIRMAN SETZLER: Okay, so you
15 won't have a separate one, and you don't need to
16 deal with all of that. All right.

17 SENATOR HUTTO: But are you going
18 to -- and you're going to dissolve the -- sorry,
19 I stepped out right at that point, but y'all are
20 going to dissolve the economic development part
21 at the Commerce?

22 CHAIRMAN MASSEY: What we had
23 talked about was including that in the --
24 specifically including that in the things that
25 PSC has to consider when they're making a

1 decision.

2 SENATOR HUTTO: PSC considers it.

3 CHAIRMAN SETZLER: Yeah.

4 CHAIRMAN MASSEY: Right. If you
5 put them like in a -- if you look at them as a
6 judicial body, that they've got to consider
7 everything that's out there, but you
8 specifically tell them these things that's
9 there.

10 SENATOR HUTTO: Did somebody
11 advocate that position?

12 CHAIRMAN MASSEY: I think the way
13 it is right now -- and I didn't hear any
14 opposition to your suggestion that, if Commerce
15 feels like they need to intervene in order to
16 advocate or to provide that perspective on
17 economic development --

18 SENATOR HUTTO: They could.

19 CHAIRMAN MASSEY: Right. I mean,
20 I don't know that it would be necessary in all
21 cases, but if Commerce felt like it was
22 something that they needed to intervene on,
23 then, sure.

24 SENATOR ALEXANDER: They would
25 have that -- Mr. Chairman, they would have that

1 ability to intervene in those situations that
2 they feel like it would be a --

3 CHAIRMAN MASSEY: well, let's
4 include that. I mean, is there any opposition
5 to doing that? Because we talked about it
6 earlier. I don't know if that was included in
7 it.

8 UNIDENTIFIED SPEAKER:

9 (INDISTINCT)

10 CHAIRMAN MASSEY: Yes. In a rate
11 case or any other type of case before the PSC,
12 if we're taking away ORS's mandate of
13 considering economic development, then you give
14 the Department of Commerce --

15 CHAIRMAN SETZLER: Sure.

16 CHAIRMAN MASSEY: -- that
17 opportunity, if they want to intervene --

18 CHAIRMAN SETZLER: Sure.

19 CHAIRMAN MASSEY: -- to make an
20 argument on that before the PSC so that that
21 point of view will be considered. Any
22 opposition to that?

23 CHAIRMAN SETZLER: Agree.

24 Senator from Oconee, did you have something
25 else?

1 SENATOR ALEXANDER: Well, I was
2 just going to speak to the Review Committee, or
3 to the oversight committee if we want to change
4 the name from that standpoint. I think, again,
5 you've got to go back to remembering where we
6 were pre-2004, where the PSC looked different,
7 there was not the Office of Regulatory Staff,
8 and the Public Utility Review Committee was put
9 together to bring additional standards. And
10 we've had folks that have been involved in that,
11 and I think that, again, it has worked as well
12 as it can. We've worked with the candidates
13 that we have that have been provided for. I
14 think this morning we have addressed that to
15 some extent, and I think the more that we can do
16 from that standpoint -- well, we're going to
17 have the ability to work from that standpoint.
18 But the work that's being done, including the
19 review of the energy plan, all has to be done,
20 and so I think, overall, this oversight
21 committee, this joint committee, has served
22 well.

23 But I'm certainly open -- I agree
24 that -- if we want to put some parameters on
25 those public members or the selection of the

1 members, I'm certainly open to that from that
2 standpoint, and if we need some other direction
3 of things that you want us to look at or not to
4 look at, as far as the oversight of the project
5 or something of that nature.

6 CHAIRMAN MASSEY: Well, and -- I
7 mean, and that may be something that we want to
8 consider adding; I mean giving them actually an
9 oversight role in some of those -- whether it be
10 the overall energy plan as a whole, to oversee
11 whether PSC is actually acting in compliance
12 with that energy plan --

13 CHAIRMAN SETZLER: I agree with
14 that.

15 CHAIRMAN MASSEY: -- as to
16 whether (BREAK IN AUDIO) with the commissioners
17 and the Santee Cooper board members, as to
18 whether they're operating in com -- or that
19 we're all acting on the same page. Right? I
20 mean, there probably does need to be some
21 oversight to make sure that we're all moving in
22 the same direction. So that could certainly be
23 something that we add to that committee's
24 purview.

25 SENATOR ALEXANDER: And one thing

1 I would say too -- and, again, I'm fine with us
2 going with the -- actually, with Santee Cooper
3 going under the Public Service Commission. But
4 if it does not, then I think there certainly
5 needs to be an oversight of Santee Cooper as
6 well. So whether it's this or something else
7 that's created from a legislative standpoint,
8 someone at the General Assembly aspect needs to
9 have -- I mean, at this point, what the Public
10 Utility Review Committee has really been charged
11 with was the screening of the candidates per se.

12 CHAIRMAN SETZLER: Senator from
13 Dorchester.

14 SENATOR BENNETT: Thank you, Mr.
15 Chairman. If I may jump out of order a little
16 bit on the topic that I was discussing before
17 lunch, and maybe it'll fall in line with what
18 we're talking about on the restructuring of PURC
19 a little bit, if I may?

20 CHAIRMAN SETZLER: Sure.

21 SENATOR BENNETT: So Heather gave
22 me some information on the energy plan process.
23 I believe that's been ongoing. Heather, what,
24 you said a couple of years? Okay, so they've
25 been working on this plan for a couple of years.

1 we don't have it yet, but according to the one-
2 pager I have, we've got 130 professionals
3 working on this, 60 different organizations, 45
4 subcommittee meetings, and 330 survey responses
5 so far. So I'm hoping that means we're close to
6 a policy. I think the intention was and the
7 expectation was maybe by this summer -- this
8 summer or next summer? Next summer having the
9 policy done, recognizing that our activities in
10 this committee have pulled substantial resources
11 away from those folks. So I was cautioned maybe
12 not to put a deadline on when that is. However,
13 I don't know of a better way to do it to make
14 sure we get something back, so I've got maybe a
15 two-part motion here.

16 CHAIRMAN SETZLER: We're
17 listening.

18 SENATOR BENNETT: Part one is
19 that the energy plan must be delivered to the
20 General Assembly -- and if we want to make this
21 PURC -- must be delivered by 12-31-2018, so it
22 gives them about six months more than what they
23 were anticipating anyway, of next summer. And
24 then once that energy plan is delivered and
25 accepted, that, in addition to any current and

1 proposed qualification, background, or expertise
2 changes that we put together, that alignment
3 with the state energy plan shall also be
4 considered. And that will apply to Public
5 Service Commission, citizen members of PURC,
6 Santee Cooper board of directors, and any other
7 oversight group that we put together that
8 involves energy.

9 CHAIRMAN SETZLER: Do I have a
10 second?

11 SENATOR SAAB: Second.

12 CHAIRMAN MASSEY: Second.

13 CHAIRMAN SETZLER: We have a
14 second. Any discussion?

15 SENATOR BENNETT: No.

16 CHAIRMAN SETZLER: Hearing none,
17 all those in favor, say aye. All opposed, no.
18 And it's done. Okay.

19 SENATOR BENNETT: Now, with that
20 said, Mr. Chairman, I think what you're talking
21 about now of possibly expanding the citizen
22 members of PURC, if you're making sure that they
23 fall into the energy policy and the expertise, I
24 think you'd probably go a long way in aligning
25 not only our energy policy, but our regulatory

1 oversight, and hopefully avoid many of the
2 problems that we have run into in this instance.

3 SENATOR HUTTO: Mr. Chairman?

4 CHAIRMAN SETZLER: Yes, sir,
5 Senator from Orangeburg.

6 SENATOR HUTTO: I would move that
7 we have the staff draft an amendment to add
8 oversight as a component to the mission of the
9 Review Committee, or if we want to change its
10 name to the oversight committee, that it have 12
11 members, 6 legislative -- 3 Senate and 3 House
12 like we have now -- and that of the 6 public,
13 that the Governor appoint 2, the House appoint
14 2, and the Senate appoint 2, and that at least
15 -- well, maybe we'd say the Governor's
16 appointees, one needs to be somebody with a
17 background in consumer affairs, and one needs to
18 be somebody with a background in alternative
19 energy sources -- solar, wind, that kind of
20 thing -- so that we have that perspective and
21 let those perspectives come from the two
22 Governor's appointees.

23 And then the other citizen
24 appointees that come from the House and Senate
25 have to meet the same background requirements as

1 people that, you pick it, either Santee Cooper
2 board members or PURC members, but that they've
3 got to have training. They don't have to pass a
4 test, but they've got to have the background in
5 energy, accounting, law, whatever the other
6 categories that Ms. Anderson read out to us
7 earlier were. And that'd be my motion.

8 CHAIRMAN MASSEY: How are those
9 people selected, the citizen members?

10 SENATOR HUTTO: Right now it's
11 two from the --

12 CHAIRMAN SETZLER: You've got
13 two, two, and two is what he's recommending.

14 SENATOR HUTTO: Right now they're
15 picked two by the Senate Judiciary and two by
16 the Speaker?

17 SENATOR ALEXANDER: Speaker,
18 Speaker, mm-hmm.

19 CHAIRMAN SETZLER: And he's
20 adding two by the Governor.

21 CHAIRMAN MASSEY: Okay.

22 SENATOR ALEXANDER: I would
23 second his motion.

24 CHAIRMAN SETZLER: I have a
25 second for that motion. Any discussion?

1 Hearing none, all those in favor, say aye.

2 (COMMITTEE MEMBERS AFFIRM)

3 CHAIRMAN SETZLER: All opposed,
4 no, and the ayes have it. All right, next.

5 CHAIRMAN MASSEY: All right, how
6 about -- so my understanding is that one of the
7 roles of PURC now is to do annual reviews of the
8 commissioners. Is that right?

9 UNIDENTIFIED SPEAKER: Yes.

10 CHAIRMAN MASSEY: Can y'all tell
11 us how that is? I mean, how thorough is that?
12 What all does that encompass?

13 SENATOR HUTTO: We send out
14 surveys to everybody that appears before the
15 Commission -- attorneys, parties, staff -- and
16 they are asked a long questionnaire. It's
17 compiled, and then if there are -- a problem
18 area that arises -- you know, if five people
19 say, Yes, there have been problems with ex parte
20 communication, then we generally call over to
21 the PSC and say, We need to meet with Ms. Boyd
22 and discuss with her that we've got issues.
23 Quite frankly, we haven't had a lot of issues,
24 and we've tried to survey as many different
25 groups as we can.

1 But we receive the information.
2 We discuss it. And I'm looking to Senator
3 Anderson now. I just don't know that we've had
4 some problem that's risen to the level where we
5 had to act on it. But that's -- I mean, that's
6 what we do. They send us a report of what all
7 the commissioners have done during the previous
8 year, what C -- not CLEs, but what --

9 SENATOR ALEXANDER: Education.

10 SENATOR HUTTO: -- any education
11 that they've underdone, and if they're involved
12 on a national/regional level, have been to board
13 meetings or happened to chair a committee or
14 something. They send us those qualifications.
15 And we do -- so we take in evaluations, we
16 evaluate them, and, quite frankly, we haven't
17 had a significant enough complaint to have to
18 react to it.

19 CHAIRMAN MASSEY: well, I wonder
20 if the annual review should be more encompassing
21 and actually review their participation and
22 decisions in closed cases -- not in pending
23 cases, right -- review their performance to see
24 whether they are acting in compliance with the
25 energy plan if we're going to make that part of

1 the thing. You know, should --

2 SENATOR HUTTO: Well, you know,
3 their --

4 CHAIRMAN MASSEY: -- should there
5 be some type of looking into how well they're
6 doing in the job?

7 SENATOR HUTTO: Let me say this.
8 Their decision, if it violates the law, is
9 appealable to the Supreme Court. And so there
10 is a review on the substance of what they rule,
11 okay? What we've been doing is sort of
12 reviewing their capacity, how many -- we ask, in
13 the questionnaire, Are they showing up to work?
14 Are they there in the office? Are they, you
15 know, phoning it in, or are they doing it? And
16 we ask about ex parte communications because
17 that, in the past, that had been one of the
18 complaints, is that sometimes certain
19 individuals went in and talked to them ahead of
20 time about the case, which obviously you can't
21 do.

22 SENATOR ALEXANDER: Pre-2004.

23 SENATOR HUTTO: Yeah, pre-2004.
24 But we continue to ask that question. So other
25 than surveying everybody they come in contact

1 with basically -- their staff, the litigants,
2 the lawyers -- I think the other commissioners
3 actually fill out -- do the commissioners
4 themselves fill out a -- they don't. Okay,
5 well, then I guess we could ask them to do a
6 self-evaluation maybe. We don't do that.

7 But if you're asking us to go
8 back and review the substance of what they do,
9 what would we do if we found out a ruling they
10 issued -- I mean, in other words, I don't want
11 to turn us into the second court of appeals.

12 CHAIRMAN SETZLER: Well, and I
13 guess I raise, just for consideration, there is
14 a statute that prohibits us from getting
15 involved in rate-making matters before the
16 Commission, and then are you indirectly getting
17 in rate-making matters before the Commission?
18 Even though it's after the fact and you're
19 giving an implication of what you did or did not
20 like.

21 SENATOR HUTTO: Right, because
22 let's say we sent word to them after the fact
23 that we frowned upon their latest increase in
24 the rates. You know, I don't think we should be
25 doing that. I mean, I think if there's a

1 problem with the rate-making process, that as a
2 matter of law they've made an error, then -- and
3 now that we've got a consumer advocate, they'll
4 have the ability to appeal too, but somebody
5 ought to appeal that to a court or the next
6 level of jurisdiction to review that. I don't
7 think it should come to a committee.

8 CHAIRMAN MASSEY: All right, so
9 what --

10 CHAIRMAN SETZLER: Do you
11 interview or talk to ORS, the executive director
12 or chief legal counsel or the consumer advocate?

13 SENATOR ALEXANDER: As far as the
14 review of ORS, yeah, it's --

15 CHAIRMAN SETZLER: No, the review
16 of the PSC members.

17 SENATOR HUTTO: Does the ORS get
18 a survey to fill out? Yeah.

19 CHAIRMAN SETZLER: Okay.

20 SENATOR HUTTO: Because they
21 appear before the PSC, they'd get an evaluation.
22 And I think maybe multiple members of ORS staff.
23 I don't know that ORS just turns in one.

24 SENATOR ALEXANDER: And I think,
25 overall, we've had a pretty good participation

1 rate of getting surveys back in once we started
2 that process. I mean, that started from 2005
3 going forward.

4 SENATOR HUTTO: They're anonymous
5 to the extent that we -- I mean, we want people
6 to tell us what they -- we don't make them sign
7 it. Now, if we had six or seven come back and
8 all were saying the same thing, we'd probably,
9 at that point, start an investigation to figure
10 out what's going on. Isn't that right, Heather?
11 I mean, we don't know who fills out each survey.

12 MS. ANDERSON: There is an option
13 that you can put your name on the survey if
14 you'd like, but your comments have to be
15 confidential. So staff can go through, and what
16 I do is I take comments that are received,
17 unless I am instructed otherwise by the person
18 who has given me the survey and says, I want my
19 name, I want them to know that I did this, and
20 I'll take those comments and put them in a
21 separate document so the members don't know --
22 and a lot of times, I won't know -- where they
23 came from. But even if there was one comment
24 that raised a concern, that could be something
25 that the subcommittee could look into or have

1 staff inquire about.

2 SENATOR HUTTO: We have done
3 that. I mean, every now and then, there is a
4 comment that causes us to look a little further.
5 I'm just saying, we haven't really found
6 anything that's risen to the level that we
7 thought we needed a full investigation by the
8 whole committee.

9 CHAIRMAN MASSEY: well, I guess
10 it could be up to the subcommittee that's
11 looking at this legislation to figure out, you
12 know, what kind of oversight do we want to give
13 to this new oversight committee. I mean, I
14 think that's important too. I mean, I like the
15 idea of giving the committee oversight. We're
16 just going to have to talk about what --

17 CHAIRMAN SETZLER: Me too.

18 CHAIRMAN MASSEY: -- what that --
19 how extensive that should be, right?

20 SENATOR HUTTO: Is P -- yes.
21 Senator, let me ask you this, is PSC one of the
22 state entities that (INDISTINCT) one of those --
23 rotating every three years, we'd look at them?

24 SENATOR ALEXANDER: Every seven
25 years. I'm sure they'll be within that.

1 SENATOR HUTTO: Seven years then,
2 as part of the regular oversight process?

3 UNIDENTIFIED SPEAKER:

4 (INDISTINCT)

5 CHAIRMAN MASSEY: You mean --

6 SENATOR HUTTO: They would roll
7 through that other oversight process

8 (INDISTINCT) --

9 SENATOR ALEXANDER: And if they
10 don't, (INDISTINCT) include that.

11 CHAIRMAN MASSEY: Well, I mean,
12 we're doing the Workers Comp Commission, right,
13 and so you would think that PSC should fall
14 under that too.

15 SENATOR HUTTO: Well, they
16 haven't come through that (INDISTINCT) --

17 CHAIRMAN MASSEY: We haven't done
18 it yet, yeah.

19 SENATOR HUTTO: Not yet. But
20 just if you wanted a check on the process, once
21 every seven years you're going to get a full
22 (INDISTINCT) --

23 SENATOR ALEXANDER: (INDISTINCT)
24 But they're not (INDISTINCT) included.

25 CHAIRMAN SETZLER: Senator from

1 williamsburg.

2 SENATOR SAAB: Similarly, there's
3 not a statute that says that we ought not be
4 involved in the workers comp oversight. What
5 I'm hearing from Senator Setzler was that
6 there's a statute specifically prohibiting us
7 from getting involved in rate setting, so I
8 think we're dealing with apples and oranges as
9 opposed to two apples.

10 CHAIRMAN MASSEY: And I think
11 that's absolutely right. You know, I may differ
12 a little bit as to whether we could get involved
13 once a case has been closed, as to whether
14 that's actually getting involved in the rate
15 making.

16 SENATOR SAAB: I think that might
17 have a chilling effect on what they do next,
18 depending on what we do.

19 CHAIRMAN MASSEY: I mean, I think
20 we could -- I think you can ask questions about
21 particular cases that are closed as to how they
22 viewed things. I mean, I think we do that with
23 judicial candidates. We do that with -- now, I
24 don't think you could ask them about a pending
25 case. I think that would be inappropriate.

1 But, I mean, if they make a decision in a case
2 and it's closed, the appeals are finalized, why
3 could we not ask them about it?

4 SENATOR SAAB: I just think the
5 question would be whether or not we are
6 teetering on violating the spirit of the
7 statute.

8 CHAIRMAN MASSEY: Then how do we
9 -- with the selection process being the way that
10 it is, how do you make a good judgment as to
11 which candidate is better for the job than the
12 other?

13 SENATOR SAAB: Oh, I think it's
14 right for the issue as to whether or not persons
15 are reelected, but I think that's a different
16 ball game.

17 CHAIRMAN MASSEY: Than some type
18 of an oversight?

19 SENATOR SAAB: I do. I think
20 it's different.

21 SENATOR ALEXANDER: Versus the
22 yearly review.

23 SENATOR SAAB: Yes, sir.

24 SENATOR ALEXANDER: Versus the
25 reelection.

1 SENATOR SAAB: Yes, sir.

2 SENATOR HUTTO: If they come up
3 with a five-two opinion and you know which ones
4 voted which way -- just like the judges, they
5 sign their names.

6 SENATOR SAAB: Right.

7 SENATOR HUTTO: You do have that
8 ability to look at and say, well, these two guys
9 are always -- you might say right or wrong, but.

10 CHAIRMAN MASSEY: Yeah, I mean,
11 and I think typically what you've got now is
12 that they're almost always unanimous.

13 SENATOR HUTTO: Unanimous.

14 CHAIRMAN MASSEY: Right, and I
15 think that is, in large part, because of ORS's
16 current role because ORS's -- I mean, ORS
17 basically acts as a mediator. Then you get an
18 agreement, and then the Commission is going to
19 adopt the agreement. But if you have a consumer
20 advocate and you're going to be litigating more
21 of these issues, then you very well could get
22 some more split decisions.

23 SENATOR HUTTO: Well, I'll make a
24 motion, Mr. Chair, that we let staff look at the
25 possible oversight roles that the committee

1 could have, maybe look at some other states and
2 see what oversight they do, and make some
3 recommendations. We've already agreed that we
4 want them to do oversight.

5 SENATOR ALEXANDER: Yes.

6 SENATOR HUTTO: The specifics of
7 the oversight, let's get some possibilities for
8 us and at a later date.

9 CHAIRMAN SETZLER: Okay.

10 SENATOR ALEXANDER: I second
11 that.

12 CHAIRMAN SETZLER: Motion in the
13 second. Any discussion? All those in favor,
14 say aye.

15 (COMMITTEE MEMBERS AFFIRM)

16 CHAIRMAN SETZLER: All opposed,
17 no, and the ayes have it. Senator from
18 Edgefield.

19 CHAIRMAN MASSEY: Mr. Chairman,
20 looking through the notes we have from the
21 suggestions that we had, I think I've -- unless
22 -- y'all tell me I've missed something.

23 CHAIRMAN SETZLER: I think you
24 missed one of Senator Fanning's.

25 CHAIRMAN MASSEY: Okay.

1 CHAIRMAN SETZLER: Yeah, the site
2 preservation.

3 CHAIRMAN MASSEY: Okay.

4 CHAIRMAN SETZLER: If I recall
5 correctly.

6 SENATOR FANNING: I had several,
7 but that's the one that really -- probably
8 timely to worry about. Mine basically -- the
9 state directs Santee Cooper and any entity that
10 receives approved rate -- consumer rate money to
11 protect any assets purchased with the rate money
12 authorized by the state or any subdivision
13 thereof; trying to cover both the Santee Cooper
14 share and the SCANA share.

15 And the reason I'm worried about
16 the timeliness of this is that, thanks to the
17 work of this committee, we discovered what SCANA
18 was doing to purposefully allow damage to occur
19 so that they could collect the abandonment tax
20 credits and, even though we now have had some
21 folks looking over there, the worry that as they
22 pursue that, we might not have the options that
23 we talked about later on. And so I am proposing
24 that we direct Santee Cooper and any entity that
25 has received any monies with an approved rate

1 increase to protect the property purchased with
2 that money.

3 CHAIRMAN SETZLER: For how long
4 and so forth?

5 SENATOR FANNING: I wanted 80
6 years, but I realized that probably that 80 is
7 that -- I would be open to suggestions.

8 CHAIRMAN MASSEY: You don't get
9 it if you don't ask for it.

10 SENATOR FANNING: I think
11 probably a year is what was in my mind when I
12 was writing this, only because that seems to be
13 where they're headed. I think five years would
14 probably protect options that we would have down
15 the road.

16 CHAIRMAN SETZLER: Okay.

17 CHAIRMAN MASSEY: Mr. Chairman,
18 let me say --

19 CHAIRMAN SETZLER: Yes, sir.

20 CHAIRMAN MASSEY: I have no
21 problem supporting that now and trying to at
22 least explore that through the subcommittee
23 process we talked about earlier. I do have a
24 question, which hopefully would be vetted at the
25 subcommittee level, as to I don't want to do

1 something that's going to jeopardize their
2 ability to claim that \$2.2-billion tax credit.

3 SENATOR HUTTO: I agree, but as I
4 understand it, we're just talking about
5 legislation to be filed in January. In theory,
6 they're going to have met the terms of
7 abandonment at the end of this year, right?

8 CHAIRMAN MASSEY: Yeah, but
9 they're going to -- I mean, I think a \$2.2-
10 billion tax credit is something that's probably
11 going to get the IRS's attention, so they're
12 going to have to demonstrate, going forward,
13 that they really do mean to abandon.

14 SENATOR HUTTO: Right, and I
15 question what the word protect means because a
16 lot of these -- I don't know if the right word
17 is modules -- and other things were designed to
18 be out in the elements. (INDISTINCT) Now, some
19 of the interior parts probably tended to be
20 covered, and the question is, do you protect
21 them if you cover them with a tarp, or do you
22 really have to build a warehouse and put them
23 in? Do you have to go in and lubricate them and
24 all every other week to make sure that they're
25 still --

1 SENATOR FANNING: I guess I would
2 amend, then, the motion to protect them such
3 that they would maintain their status as they
4 were on July 31, 2017. We, we -- I don't want
5 to say -- \$9.5 billion invested, and if we don't
6 stop them -- and I am, Senator from Orangeburg,
7 I am worried that this won't really be far
8 enough because they're actively trying to
9 demonstrate to the IRS before we can even file
10 this in January.

11 But 45 percent of that stuff out
12 there is directly state assets. I mean, that's
13 Santee Cooper property that's sitting out there
14 on those grounds, and while some of it may be
15 okay to be sitting out there, the majority of
16 that is not supposed to be sitting out there
17 exposed to the elements, modules with the top
18 off. We've got to do something to at least
19 protect options, and if y'all keep telling me,
20 Senator from Fairfield, it's going to take a
21 while, at least make sure we have the option for
22 it to take a while because, if we don't protect
23 it, we won't even have a while.

24 CHAIRMAN MASSEY: I wonder if it
25 might be that the 55 percent that SCANA owns

1 might just happen to be those items that are
2 okay being left outside, and the 45 percent that
3 Santee Cooper owns are the ones that probably
4 maybe need to be preserved.

5 UNIDENTIFIED SPEAKER:

6 (INDISTINCT)

7 CHAIRMAN SETZLER: Sounds like a
8 plan.

9 SENATOR FANNING: But now -- so
10 that was why my motion stated that any assets
11 either purchased by Santee Cooper or any entity
12 that used an approved rate increase because -- I
13 go back to the same reason that you supported
14 reducing the 18 percent -- is the premise behind
15 them asking for the rate increase was to build a
16 reactor. This is like SCANA making us buy a car
17 that they want to buy, making us pay the
18 payments on the car that we want to buy, and
19 while we're still making the payments, they run
20 the car into the lake; they're trying to cash in
21 on the insurance policy and still making us make
22 the payments on the car. We've got to at least
23 stop them from drowning the car while we can
24 figure out what we can do in terms of getting
25 something out of it.

1 SENATOR HUTTO: I don't know that
2 we can't dictate to a private a company how they
3 have to spend their money.

4 UNIDENTIFIED SPEAKER: Can't?

5 SENATOR HUTTO: I mean, that's
6 another takings issue.

7 SENATOR ALEXANDER: Mr. Chairman?

8 SENATOR FANNING: But I'm not
9 asking them how to spend it. They've already
10 spent the money.

11 SENATOR HUTTO: You're telling
12 them they've got -- well, we heard testimony it
13 was going to cost something like 15 to 17
14 million dollars a year to cover it.

15 SENATOR FANNING: No, that was --
16 and I purposefully didn't bring that up, but
17 also on the list today was mothballing.
18 Mothballing would cost 15 million the first year
19 and 5 million in subsequent years. Now, that
20 was another idea I had. I was going to wait
21 till this Christmas Eve meeting to bring that
22 one up. But, Senator from Orangeburg, I think
23 there's -- I'm not even asking for that in this
24 amendment. The mothballing one is the one that,
25 remember, if you don't crank your car up or your

1 truck up once a month, it won't. And there's
2 the mothballing. What they detailed for 15
3 million the first year and 5 million in
4 subsequent years would actually keep the parts
5 operational. In other words, that would be
6 doing everything, including keeping -- and,
7 remember, that 15 million included a skeletal
8 staff that would run it. All this amendment is
9 doing is stating that we will keep the level of
10 parts that are there from deteriorating beyond
11 what they are; we're not allowing them to be
12 mothballs (INDISTINCT).

13 CHAIRMAN SETZLER: Senator from
14 Richland.

15 SENATOR SCOTT: First, do we have
16 a clue what's in the contract? Keep in mind, we
17 are trying to trespass on somebody else's
18 property. We are the silent partner like the
19 bank. There's very little they can do until
20 they foreclose and get the property back in
21 their possession. And so do we have a clue what
22 might be in the contract to allow them any
23 protection provision? Because I don't think,
24 like the Senator from Orangeburg just said, as
25 much as I'd like to make sure that the state is

1 protected, I'm not sure that we can just
2 arbitrarily go on the property or tell them how
3 to spend their money, or even, if we decide to
4 spend the money, we can spend the money on their
5 property.

6 That's the biggest problem, and
7 unless we had some protection clauses in the
8 contract that allow us, under some premise, to
9 be able to go on the property, to do something,
10 unforeseen something happened, we can go on the
11 property to protect our interests. All I heard
12 the whole time when they did their testimony is
13 that most of the time we didn't know what was
14 going on.

15 SENATOR FANNING: Mr. Chairman?

16 SENATOR SCOTT: So, you know,
17 that's the part that's the troubling.

18 SENATOR FANNING: SCANA broke
19 their promise. We can't lose sight of this,
20 that they promised us two nuclear reactors in
21 return for a rate increase followed by a rate
22 increase, followed by a rate increase, followed
23 by a rate increase nine times. They promised us
24 the two reactors. They broke that promise.

25 SENATOR SCOTT: I underst --

1 SENATOR FANNING: They broke that
2 covenant. And the only reason they were given
3 those rate increases was to build reactors, and
4 not only are they wanting to continue to make us
5 pay for reactors that they're wanting to
6 abandon, they're wanting to demolish what they
7 created with money that we allowed them -- so
8 when you say ownership -- we allowed them to
9 collect.

10 SENATOR SCOTT: Mr. Chairman?

11 CHAIRMAN SETZLER: Senator from
12 Richland.

13 SENATOR SCOTT: People buy large
14 land -- large streetscape buildings all the
15 time. They buy condos. They buy houses. They
16 promise to pay. And if they don't pay, not
17 until after the (BREAK IN AUDIO) foreclose with
18 the foreclosure attorney does the bank have any
19 right to go to and from that property, unless
20 there's a clause within it to allow them to
21 trespass.

22 SENATOR FANNING: well, in
23 cities, if I buy a building downtown Chester, I
24 cannot allow that building to deteriorate and
25 become a problem in the community because it'll

1 do what? It'll devalue every building in the
2 community, and so the county or the city, in
3 this case, would have a right to go in and
4 prevent me from blowing up a perfectly good
5 building because it would be harmful to the
6 interests of the city.

7 SENATOR SCOTT: That's two
8 different --

9 SENATOR FANNING: As the citizen
10 of Fairfield County --

11 SENATOR SCOTT: That's two
12 different scenarios.

13 SENATOR FANNING: I will argue,
14 as a citizen of Fairfield County and as a
15 neighbor of that plant, Senator from Richland --
16 it may not be a neighbor to you, and it may be a
17 different situation to you --

18 SENATOR SCOTT: It's not.

19 SENATOR FANNING: -- but in
20 Fairfield County, it is that situation. You've
21 got an entity that wants to blow itself up, and
22 it is my neighbor, and that is definitely
23 devaluing not just my property; it's devaluing
24 the property all over Fairfield County.

25 SENATOR SCOTT: I understand, and

1 that's why you've got zoning codes and zoning
2 ordinance. It just doesn't fall under any of
3 that. You're talking about protecting it so,
4 over the long haul, something made out of brick
5 and mortar that's not completed is protected.
6 The first step, even if the zoning wanted to
7 come on, there has to be a reason to be able to
8 trespass on it. Based on that contract, it
9 doesn't give us a reason on the property. What
10 we can do is try to work with that entity and
11 try to figure out how we protect our interests
12 until we get through this process. Thank you,
13 Mr. Chairman.

14 SENATOR ALEXANDER: Mr. Chairman?

15 CHAIRMAN SETZLER: Okay, Senator
16 from Oconee.

17 SENATOR ALEXANDER: Thank you.
18 Kind of following up on that last comment there,
19 I think at least we ought to at least get an
20 update from both SCANA and Santee Cooper as to
21 the status, and maybe being we're not going to
22 meet anymore, at least in the foreseeable
23 future, at least getting it to the cochairs so
24 that -- and then they could disseminate that
25 information out to us. But I do think that

1 would be --

2 CHAIRMAN SETZLER: It's my
3 understanding -- let me -- and I don't want to
4 misstate something, but I thought Santee Cooper
5 had publicly stated that they were going to take
6 care of the property for the next year.

7 SENATOR ALEXANDER: So what does
8 that mean? That's the reason I --

9 CHAIRMAN SETZLER: Well, to cover
10 the property so it --

11 SENATOR ALEXANDER: That's the
12 reason I'd like to have staff --

13 CHAIRMAN SETZLER: The discussion
14 in one meeting was that it was going to rot, and
15 so that it, quote, would not rot. But it's not
16 going to be mothballed. I think the question is
17 what happens after that year. Am I wrong,
18 Senator from Fairfield? I thought that's what I
19 understood.

20 SENATOR FANNING: We don't have
21 the assurance that Santee Cooper is going to be
22 allowed to do that, and SCANA has to prove to
23 the IRS really soon that they have goods that
24 cannot be finished and brought to completion so
25 they can qualify for those tax breaks.

1 SENATOR HUTTO: Mr. Chairman?

2 CHAIRMAN SETZLER: Yeah, Senator
3 from Orangeburg.

4 SENATOR HUTTO: I'll just go back
5 to something that Senator from Edgefield said.
6 I don't think we should take any action on this
7 today to give the appearance that we have an
8 impression that SCANA is not abandoning the
9 project because that is something -- I know it's
10 a term of art, it has meaning within the IRS
11 code, but for us to say that we're directing
12 them to do something, not to abandon it, might
13 damage their ability to do just what the Senator
14 from Fairfield said, is prove to the IRS that
15 they are. So while this might be a matter we
16 take up next year, I don't think we should take
17 any action on this particular issue today.

18 SENATOR FANNING: If I'm SCANA,
19 Senator from Orangeburg, why on earth would I
20 not destroy the entire \$9.5 billion so I could
21 get -- I mean, \$2 billion is a lot of money,
22 which is why you're wanting to protect their
23 ability to get it. But we then have no options.
24 Y'all keep saying that we should wait and talk
25 about the possible completion of the reactors in

1 the future. we'll never be able to complete
2 those reactors 20 years from now if they destroy
3 them.

4 SENATOR HUTTO: Well, they're not
5 affirmatively destroying them.

6 SENATOR FANNING: Allowing
7 destruction to occur to them.

8 SENATOR HUTTO: Between now and
9 December 31st when it's got to go to the IRS, I
10 don't know that anything is going to happen of
11 monumental consequence.

12 CHAIRMAN SETZLER: I hate to say
13 this with an outstanding judge sitting in the
14 audience, but I would believe Santee Cooper has
15 the ability to go in court against SCANA to get
16 the property protected if they chose to do that
17 on behalf of the state.

18 SENATOR FANNING: How do we
19 encourage them to do that?

20 CHAIRMAN SETZLER: I think
21 they've heard you. I mean, I don't know if
22 there's any commitment they're going to do that,
23 but they certainly heard it at the last meeting
24 and have it protected for the next year, as I
25 understand it.

1 CHAIRMAN MASSEY: And let's hope
2 that there are actually some conversations going
3 on to try to preserve that significant asset as
4 well.

5 CHAIRMAN SETZLER: And I actually
6 agree with you that we need to preserve it. You
7 know that.

8 SENATOR FANNING: Yes. The
9 conversations that I'm aware of that have gone
10 on that have some agreement that it needs to be
11 preserved do not involve SCANA's desire or
12 willingness to entertain a desire that it be
13 preserved. It directly conflicts with their
14 mission, which is to get the tax credits, which
15 is the opposite of preserving it.

16 CHAIRMAN MASSEY: Then I guess
17 the question is whether there's some way to
18 reconcile those things, right, if there's some
19 way for them to collect, to abandon, while also
20 allowing Santee Cooper to preserve the site, if
21 there's some way that that could meet the tax
22 rules that they could abandon the project and
23 Santee Cooper could still preserve everything
24 with the understanding that SCANA's not going to
25 do anything with it anymore. Let's hope there

1 are conversations going on in that direction.

2 SENATOR FANNING: Short of --

3 CHAIRMAN SETZLER: Senator from
4 Williamsburg. I'll come back to you, Senator
5 from Fairfield.

6 SENATOR SAAB: Thank you, Mr.
7 Chairman. No, I was going to try to echo the
8 sentiments that Senator Massey just echoed,
9 almost like what he said earlier about the
10 portion that's on the outside, perhaps that
11 belongs to SCANA, and the portion on the inside,
12 perhaps it belongs to Santee Cooper.

13 I really believe that there are
14 opportunities for those entities to get together
15 and figure out how both ends can be met
16 consistent with the conversation that we're
17 having here, and I would just do like the
18 cochair is doing and encourage folks to have
19 those kinds of conversations and see can't we
20 work collaboratively. Although the interests
21 are somewhat different, I still think there is
22 an opportunity to work collaboratively and
23 achieve both ends. And so while I would agree
24 that we ought not formally take any action today
25 -- I would agree with the Senator from

1 Orangeburg as it relates to that -- but I would
2 hope that someone's benefiting from the
3 conversation and, again, that both ends can be
4 met, so.

5 CHAIRMAN SETZLER: Okay, Senator
6 from Fairfield.

7 SENATOR FANNING: I withdraw my
8 motion.

9 CHAIRMAN SETZLER: Okay.
10 Anything further by any member of the committee?
11 Senator from Fairfield, before we adjourn, I'm
12 asking is there anything else by any other
13 member of the committee?

14 SENATOR FANNING: I would like
15 to, at the Christmas Eve meeting or whatever
16 meeting you designate, a couple of issues --

17 CHAIRMAN SETZLER: That was
18 Senator Massey who's going to meet with you on
19 Christmas Eve, not me.

20 SENATOR FANNING: Absolutely.
21 Federal tax credits, the federal loans would be
22 two issues I don't think have to be talked about
23 today, but I would like to talk about them in
24 the future. The last one is -- and we don't
25 need to do it today, but an entity that we've

1 created and given a monopoly and their ability
2 to give us campaign donations, I'd like to at
3 least discuss that at a future meeting as well.
4 But that's all.

5 CHAIRMAN SETZLER: Okay. So you
6 have nothing else today?

7 SENATOR FANNING: Nothing else
8 today.

9 CHAIRMAN SETZLER: Okay, before
10 we adjourn, on behalf of Senator Massey and I as
11 cochairs, I want to thank everybody because this
12 committee has worked diligently and, in my
13 opinion, responsibly in trying to address the
14 very difficult issues that are here. But I
15 don't think we can adjourn without recognizing
16 the outstanding staff, the three ladies who have
17 staffed this committee for us to date and will
18 be going forward with us, so if we would, let's
19 at least give them a round of applause and thank
20 them.

21 SENATOR ALEXANDER: And Mr.
22 Chairman?

23 CHAIRMAN SETZLER: Yes, sir.

24 SENATOR ALEXANDER: I just also
25 want to echo, again, the comments that were made

1 by the Senator from Williamsburg earlier of how
2 much we appreciate all the work and effort of
3 the co-chairs in this. I know this that the
4 committee has done pales in comparison to the
5 work that y'all have done from this standpoint,
6 and we appreciate that commitment as well.

7 CHAIRMAN SETZLER: Thank you.
8 Hearing nothing further, we stand adjourned
9 until further call of the Chair.

10 02:26:00

11 (END OF PART TWO)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE OF TRANSCRIPTIONIST

2 I, Stacey L. Wilson, do hereby certify:

3 That the foregoing video files entitled "V.
4 C. Summer Nuclear Project Review Committee Part
5 1" and "V. C. Summer Nuclear Project Review
6 Committee Part 2" were transcribed; that the
7 foregoing transcript as typed is a true, accurate
8 and complete record of the video files to the
9 best of my ability under the prevailing
10 circumstances.

11 I further certify that I am neither related
12 to nor counsel for any party to the cause pending
13 or interested in the events thereof.

14
15
16
17 _____
18 Stacey L. Wilson

19 December 8, 2017
20
21
22
23
24
25