

**BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COLUMBIA, SOUTH CAROLINA**

SPECIAL CM #18-22

July 3, 2018

3:07 ~ 3:16 P.M.

COMMISSION MEMBERS PRESENT: Comer H. ‘Randy’ RANDALL, *Chairman*; and COMMISSIONERS John E. ‘Butch’ HOWARD, Elliott F. ELAM, Jr., Swain E. WHITFIELD, Thomas J. ‘Tom’ ERVIN, and G. O’Neal HAMILTON

COMMISSION MEMBERS ABSENT: Commissioner Justin T. WILLIAMS

ADVISOR TO COMMISSION: Joseph Melchers, Esq.
GENERAL COUNSEL

PRESENTING AGENDA: James Spearman, Ph.D.
EXECUTIVE ASSISTANT TO COMMISSIONERS

STAFF PRESENT: Jocelyn G. Boyd, Chief Clerk/Administrator; F. David Butler, Esq., Senior Counsel; Thomas Ellison, Technical Advisory Staff; Colanthia Alvarez, Clerk’s Staff; Patricia Stephens, Project Management Staff; Randy Erskine, Information Technology Staff; and Jo Elizabeth M. Wheat, CVR-CM/M-GNSC, Court Reporter.

**TRANSCRIPT / MINUTES
OF
SPECIAL COMMISSION BUSINESS MEETING**

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

101 EXECUTIVE CENTER DRIVE
COLUMBIA, SC 29210

POST OFFICE BOX 11649
COLUMBIA, SC 29211

WWW.PSC.SC.GOV

I N D E X

	PAGE
<u>UTILITIES AGENDA</u>	3
<i>Item #1 (Elam)</i>	3
Question/Comment by Commissioner Ervin.....	5

In accordance with S.C. Code § 30-4-80(E), the Public Service Commission hereby certifies that it has notified all persons, organizations, local news media, and all other news media requesting notification of the time, date, place, and agenda of this public meeting, by posting a copy of the Notice in its principal office, by e-mailing such Notice to all who request same, and by posting the Notice on the Commission's official Internet website.

P R O C E E D I N G S

1
2 **CHAIRMAN RANDALL:** Be seated please. We want
3 to welcome everyone here for this afternoon's
4 meeting, and I'd like to ask y'all to pause for a
5 moment of silence.

6 [Brief pause]

7 Amen.

8 Dr. Spearman.

9 **DR. SPEARMAN:** Mr. Chairman and Commissioners,
10 on our Special Business Meeting Agenda, Item 1 is a
11 motion to overrule or clarify the Order of the
12 Hearing Officer on motions to compel discovery.

13 **COMMISSIONER ELAM:** Mr. Chairman.

14 **CHAIRMAN RANDALL:** Commissioner Elam.

15 **COMMISSIONER ELAM:** Mr. Chairman, Friends of
16 the Earth and Sierra Club – I'll refer to them as
17 FoE/SC – moved to overrule or clarify Hearing
18 Officer Order No. 2018-74-H. They argue that the
19 Order "improperly imposed an unwarranted and
20 overbroad gag or protective order, effectively
21 barring...access to all further relevant and
22 discoverable evidence."

23 Mr. Chairman, the plain language of the
24 Directive belies that claim. No less than six
25 times the Hearing Officer's Directive makes clear
26 that the protective order would only apply to
27 proprietary or confidential material. Moreover,
28 the Directive in no way makes a finding that all
29 materials provided in response to FoE/SC's
30 discovery requests are, in fact, proprietary or
31 confidential. The procedure outlined in the
32 Directive provides FoE/SC with responses to its

1 discovery in a timely manner, thus allowing them to
2 prepare their case for presentation to the
3 Commission. The procedure in the Directive also
4 allows FoE/SC to question the designation of
5 confidentiality of any materials by identifying
6 those specific discovery materials to the Hearing
7 Officer. At that point, SCE&G would bear the
8 burden of proving to the satisfaction of the
9 Hearing Officer that those materials are
10 appropriately deemed as proprietary or
11 confidential. If the company fails to meet that
12 burden, the Hearing Officer would rule that FoE/SC
13 would be free to disclose the materials publicly.

14 In summary, Mr. Chairman, this process is not
15 a gag order. It's a balancing of interests that
16 simply expedites provision of discovery responses
17 to FoE/SC so that they can make their case to the
18 Commission.

19 With regard to the site-visit question
20 addressed by the motion, it appears that the
21 Hearing Officer's ruling was based solely on
22 applicable law. Pursuant to Rule 34(b) of the
23 South Carolina Rules of Civil Procedure, "the
24 request shall set forth the items to be inspected
25 either by individual item or by category and
26 describe each item and category with reasonable
27 particularity." As determined by the Hearing
28 Officer, the request by the Friends of the Earth
29 and Sierra Club lacks any of this specific,
30 required information. I agree with the Hearing
31 Officer that FoE/SC has not met their burden under
32 the law, on that point. If SCE&G agrees to a site

1 visit, as discussed, such a visit may occur.

2 For all these reasons, I believe that the
3 Hearing Officer has correctly interpreted the law
4 in this case as to these discovery issues.
5 Accordingly, I move that we grant clarification as
6 I've stated above. Finally, I would move that we,
7 once again, encourage the parties in these matters
8 to continue discussions for resolution of discovery
9 matters. So moved, Mr. Chairman.

10 **CHAIRMAN RANDALL:** Thank you.

11 You've heard Commissioner Elam's motion. Are
12 there any questions or comments?

13 **COMMISSIONER ERVIN:** Did Mr. Wells_[sic] get
14 everything he asked for?

15 **COMMISSIONER ELAM:** Mr. Guild?

16 **COMMISSIONER ERVIN:** Yes, sir. Mr. Guild.

17 **COMMISSIONER ELAM:** I believe that he does.
18 It just lays out the order of things, I guess, a
19 little differently. He sought a more narrowly
20 tailored protective order. This just – in essence,
21 it gets the process moving, and I guess it requires
22 Friends of the Earth and Sierra Club to help in
23 that narrowing. It certainly gets the materials to
24 them faster, so they can use them in the case; and
25 if they want to disclose them publicly, they can go
26 to the Hearing Officer and not seek permission, but
27 to have SCE&G justify the proprietary nature of
28 anything that they've claimed.

29 I would expect both parties to comply with the
30 spirit of this, such that SCE&G wouldn't be
31 designating every page as proprietary or
32 confidential, and that Friends of the Earth

1 wouldn't immediately go to the Hearing Officer and
2 say that every single page ought to be declared
3 non-confidential. We're all under a schedule and
4 we have to kind of get this thing moving, so we can
5 get testimony dates and so we can have the hearing
6 we have to have, and move along, and I think this
7 process moves that along.

8 **CHAIRMAN RANDALL:** Thank you. Anything else?
9 Anybody else? Any other questions or comments?

10 [No response]

11 If not, all in favor, please say "aye"?

12 **COMMISSIONERS:** Aye.

13 **CHAIRMAN RANDALL:** All opposed, "no"?

14 [No response]

15 Motion carries.

16 Dr. Spearman.

17 **DR. SPEARMAN:** Item 2, Docket No. 2018-217-E,
18 this really is a follow-up to the Commission
19 Meeting yesterday, regarding experimental rates and
20 Assembly Bill 4375.

21 **COMMISSIONER WHITFIELD:** Mr. Chairman.

22 **CHAIRMAN RANDALL:** Commissioner Whitfield.

23 **COMMISSIONER WHITFIELD:** Mr. Chairman, I have
24 a motion in Item 2. Pursuant to Commission Order
25 2018-459, South Carolina Electric & Gas has filed
26 full tariff sheets that reduce the current total
27 retail revenues by \$367,364,487. I move that the
28 company implement the new experimental rates as
29 shown in these tariffs, beginning with the first
30 billing cycle in August 2018. I would note that
31 ORS agrees the decrement rider and billing
32 procedures identified by SCE&G are a reasonable

1 process for implementing the requirements in H.4375
2 related to the experimental rate and that the
3 decrement rider and one-time rate credit for the
4 months of April, May, June, and July should be
5 implemented with the August 2018 billing cycle.

6 Additionally, the company needs to correct the
7 following items:

8 Rate 15, Supplementary and Standby Service:
9 The "Standby Service Power Rate Per Month" section
10 on page one of the tariff needs formatting and the
11 rates need correcting.

12 Exhibit B, Reconciliation of BLRA Revised
13 Rates: The reconciliation needs to include Rate 27,
14 Large Power Service Real Time Pricing.

15 Also, I move that the company file the new
16 tariffs and the decrement rider in the E-Tariff
17 system within ten days. A typical residential
18 customer on Rate 8, using 1000 kilowatt-hours per
19 month, would have a monthly bill reduction of
20 approximately \$22.37.

21 I further move, Mr. Chairman, that, if any
22 provision of the Commission's ruling on this matter
23 is enjoined, held, or determined to be
24 unconstitutional, invalid, or otherwise
25 unenforceable by a court of competent jurisdiction,
26 it is the intention of this Commission that the
27 provision is severable from the remaining
28 provisions of this ruling and that the injunction
29 or holding does not invalidate or render
30 unenforceable another provision of this ruling.

31 I so move, Mr. Chairman.

32 **CHAIRMAN RANDALL:** Thank you.

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
26
27
28

You've heard Commissioner Whitfield's motion.
Are there questions or comments?

[No response]

If not, all in favor, please say "aye"?

COMMISSIONERS: Aye.

CHAIRMAN RANDALL: All opposed, "no"?

[No response]

The ayes have it. The motion carries.

Is there anything else, Dr. Spearman?

DR. SPEARMAN: Mr. Chairman and other
Commissioners, this completes the agenda for
today's meeting.

CHAIRMAN RANDALL: Thank you.

Just wanted to remind, as a general
announcement, that one of our former commissioners,
David Wright, is going to have a swearing-in
ceremony to become a member of the Nuclear
Regulatory Commission at 3 p.m., on Thursday, at
River Hills Baptist Church. We're proud of David
for his accomplishments.

If there's nothing else, this meeting is
adjourned.

[WHEREUPON, at 3:16 p.m., the proceedings
in the above-entitled matter were
adjourned.]



Date: 7/5/18

Jo Elizabeth M. Wheat, CVR-CM/M-GNSC
Court Reporter ~ Public Service Commission of South Carolina
803.896.5100 ~ Jo.Wheat@psc.sc.gov