

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

**UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,**

Plaintiff,

v.

SCANA CORPORATION, et al.,

Defendants.

Civil Action No. 3:20-cv-00882-MGL

**PLAINTIFF’S MOTION FOR ENTRY OF FINAL JUDGMENT
AGAINST DEFENDANTS SCANA CORPORATION
AND DOMINION ENERGY SOUTH CAROLINA, INC.**

Plaintiff United States Securities and Exchange Commission (“SEC”) respectfully requests that the Court enter the attached Final Judgment against Defendants SCANA Corporation and Dominion Energy South Carolina, Inc. (f/k/a South Carolina Electric & Gas Company) (collectively, “the SCANA Defendants”). In support of this motion, the SEC states as follows:

1. The SEC alleged in the complaint that the SCANA Defendants, along with former CEO Kevin Marsh and former Executive Vice President Stephen Byrne, misled investors about a project to build two nuclear units. The complaint alleged that the false statements and omissions enabled the SCANA Defendants to boost its stock price, sell more than \$1 billion in bonds, and obtain regulatory approval to raise customers’ rates to finance the project. The SEC alleged that, based on their conduct, the SCANA Defendants violated the antifraud provisions of the federal securities laws and committed certain reporting violations. The SEC also asserted claims against Marsh and Byrne.

2. The SEC and the SCANA Defendants have been able to resolve the claims against them without further Court intervention.

3. Specifically, as the attached Consent of Defendants SCANA Corporation and Dominion Energy South Carolina, Inc. reflects, the SCANA Defendants agree, without admitting or denying the allegations of the complaint, to the entry of the attached Final Judgment that:

(a) permanently restrains and enjoins the SCANA Defendants from violating Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5];

(b) permanently restrains and enjoins the SCANA Defendants from violating Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)];

(c) permanently restrains and enjoins the SCANA Defendants from violating Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13];

(d) orders the SCANA Defendants to pay disgorgement plus prejudgment interest thereon in the amount of \$112.5 million, with the SCANA Defendants’ obligation to pay disgorgement and prejudgment interest deemed fully satisfied by the approximately \$117 million paid in satisfaction of claims in *Richard Lightsey, et al., v. SCE&G, SCANA, and the State of South Carolina*, No. 2017-CP-25-00335 (S.C. Ct. of Comm. Pleas filed Aug. 14, 2017), and the approximately \$192.5 million to be paid in satisfaction of claims in *In re SCANA Corp. Sec. Litig.*, No. 3:17-CV-2616-MBS (D.S.C. filed Sept. 27, 2017); and

(e) orders Defendant SCANA Corporation to pay a civil penalty in the amount of \$25 million under Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] and Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)].

4. As a result, the SEC respectfully requests that the Court enter the attached Final Judgment against the SCANA Defendants.

5. The SEC's claims against Marsh and Byrne remain ongoing.

Dated: December 2, 2020

Respectfully submitted,

PETER M. MCCOY JR.
United States Attorney

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**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
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**UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,**

Plaintiff,

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SCANA CORPORATION, et al.,

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Civil Action No. 3:20-cv-00882-MGL

**FINAL JUDGMENT AS TO DEFENDANTS SCANA
CORPORATION AND DOMINION ENERGY SOUTH CAROLINA, INC.**

The Securities and Exchange Commission having filed a Complaint and Defendants SCANA Corporation and Dominion Energy South Carolina, Inc. (f/k/a South Carolina Electric & Gas Company) (“Defendants”) having entered a general appearance; consented to the Court’s jurisdiction over Defendants and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of

interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendants or with anyone described in (a).

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements

made, in light of the circumstances under which they were made, not misleading;
or

- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendants or with anyone described in (a).

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, and DECREED that Defendants are permanently restrained and enjoined from filing with the Commission any periodic report pursuant to Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-11, and 13a-13 promulgated thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13], which contains any untrue statement of material fact, or which omits to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, or which fails to comply in any material respect with the requirements of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and the rules and regulations thereunder.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or

participation with Defendants or with anyone described in (a).

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants are jointly and severally liable for disgorgement and prejudgment interest thereon in the amount of \$112.5 million. This amount shall be deemed fully satisfied by the approximately \$117 million paid in satisfaction of claims in *Richard Lightsey, et al., v. SCE&G, SCANA, and the State of South Carolina*, No. 2017-CP-25-00335 (S.C. Ct. of Comm. Pleas filed Aug. 14, 2017), and the approximately \$192.5 million to be paid in satisfaction of claims in *In re SCANA Corp. Sec. Litig.*, No. 3:17-CV-2616-MBS (D.S.C. filed Sept. 27, 2017).

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant SCANA Corporation shall pay a civil penalty in the amount of \$25 million pursuant to Section 21(d) of the Exchange Act [15 U.S.C. §78u(d)] and Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)]. Defendant SCANA Corporation shall satisfy this obligation by paying \$25 million to the Securities and Exchange Commission within 30 days after entry of this Final Judgment.

Defendant SCANA Corporation may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant SCANA Corporation may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

Enterprise Services Center
Accounts Receivable Branch

6500 South MacArthur Boulevard
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; SCANA Corporation as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment. Defendant SCANA Corporation shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

Defendant SCANA Corporation shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, Defendant SCANA Corporation relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendant SCANA Corporation.

The Commission shall hold the civil penalty funds, together with any interest and income earned thereon (collectively, the "Fund"), pending further order of the Court. The Commission may propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall retain jurisdiction over the administration of any distribution of the Fund. If the Commission staff determines that the Fund will not be distributed, the Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant SCANA Corporation shall not, in connection with the award of compensatory damages in any Related Investor Action, argue that it is entitled to, nor shall it

further benefit by, any offset or reduction of such compensatory damages award by the amount of any part of Defendant SCANA Corporation's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant SCANA Corporation shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant SCANA Corporation by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

VI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendants shall comply with all of the undertakings and agreements set forth therein.

VII.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

VIII.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: _____, 2020

UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

**UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,**

Plaintiff,

v.

SCANA CORPORATION, et al.,

Defendants.

Civil Action No. 3:20-cv-00882-MGL

**CONSENT OF DEFENDANTS SCANA CORPORATION
AND DOMINION ENERGY SOUTH CAROLINA, INC.**

1. Defendants SCANA Corporation and Dominion Energy South Carolina, Inc. (f/k/a South Carolina Electric & Gas Company) (“Defendants”) acknowledge having been served with the complaint in this action, enter a general appearance, and admit the Court’s jurisdiction over Defendants and over the subject matter of this action.

2. Without admitting or denying the allegations of the complaint (except as to personal and subject matter jurisdiction, which Defendants admit), Defendants hereby consent to the entry of the final Judgment in the form attached hereto (the “Final Judgment”) and incorporated by reference herein, which, among other things:

- (a) permanently restrains and enjoins Defendants from violating Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5]; and
- (b) permanently restrains and enjoins Defendants from violating Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)]; and

(c) permanently restrains and enjoins Defendants from violating Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13]; and

(d) orders Defendants to pay disgorgement plus prejudgment interest thereon in the amount of \$112.5 million, with Defendants' obligation to pay disgorgement and prejudgment interest deemed fully satisfied by the approximately \$117 million paid in satisfaction of claims in *Richard Lightsey, et al., v. SCE&G, SCANA, and the State of South Carolina*, No. 2017-CP-25-00335 (S.C. Ct. of Comm. Pleas filed Aug. 14, 2017), and the approximately \$192.5 million to be paid in satisfaction of claims in *In re SCANA Corp. Sec. Litig.*, No. 3:17-CV-2616-MBS (D.S.C. filed Sept. 27, 2017); and

(e) orders Defendant SCANA Corporation to pay a civil penalty in the amount of \$25 million under Section 21(d) of the Exchange Act [15 U.S.C. §78u(d)] and Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)].

3. Defendant SCANA Corporation acknowledges that the civil penalty paid pursuant to the Final Judgment may be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is made, the civil penalty shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant SCANA Corporation agrees that it shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant SCANA Corporation's payment of disgorgement in this action, argue that it is entitled to, nor shall it

further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant SCANA Corporation's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant SCANA Corporation agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this action. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant SCANA Corporation by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

4. Defendant SCANA Corporation agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Defendant SCANA Corporation pays pursuant to the Final Judgment, regardless of whether such civil penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant SCANA Corporation further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any civil penalty amounts that Defendant SCANA Corporation pays pursuant to the Final Judgment, regardless of whether such civil penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

5. Defendants waive the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

6. Defendants waive the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

7. Defendants enter into this Consent voluntarily and represent that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendants to enter into this Consent.

8. Defendants agree that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

9. Defendants will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

10. Defendants waive service of the Final Judgment and agree that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendants of its terms and conditions. Defendants further agree to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendants have received and read a copy of the Final Judgment.

11. Consistent with 17 C.F.R. 202.5(f), this Consent resolves only the claims asserted against Defendants in this civil proceeding. Defendants acknowledge that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendants waive any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendants further acknowledge

that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Defendants understand that they shall not be permitted to contest the factual allegations of the complaint in this action.

12. Defendants understand and agree to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings," and "a refusal to admit the allegations is equivalent to a denial, unless the defendant or respondent states that [it] neither admits nor denies the allegations." As part of Defendants' agreement to comply with the terms of Section 202.5(e), Defendants: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendants do not admit the allegations of the complaint, or that this Consent contains no admission of the allegations, without also stating that Defendants do not deny the allegations; and (iii) upon the filing of this Consent, Defendants hereby withdraw any papers filed in this action to the extent that they deny any allegation in the complaint. If Defendants breach this agreement, the Commission may petition the Court to vacate the Final Judgment and

restore this action to its active docket. Nothing in this paragraph affects Defendants': (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

13. Defendants hereby waive any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendants to defend against this action. For these purposes, Defendants agree that Defendants are not the prevailing party in this action since the parties have reached a good faith settlement.

14. Defendants agree that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

15. Defendants agree that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: 06/10/2020

SCANA Corporation

By: [Signature]

Carlos M. Brown
Senior Vice President, General Counsel
and Chief Compliance Officer

On 10, 2020, June, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent with full authority to do so on behalf of SCANA Corporation as its Senior Vice President, General Counsel and Chief Compliance Officer.



Heather Hill
Notary Public
Commission expires: March 31, 2024
City of Richmond

Dated: 6/10/2020

Dominion Energy South Carolina, Inc.

By: [Signature]

Carlos M. Brown
Senior Vice President, General Counsel
and Chief Compliance Officer

On 10, 2020, June, a person known to me,
personally appeared before me and acknowledged executing the foregoing Consent with full
authority to do so on behalf of Dominion Energy South Carolina, Inc. as its Senior Vice President, General
Counsel and Chief Compliance Officer

Heather Hill

Notary Public

Commission expires: march 31, 2024
City of Richmond

Approved as to form:

[Signature]

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Counsel for Defendants
SCANA Corporation and
Dominion Energy South Carolina, Inc.

