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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

W. Haigh Porter, Master in Equity

Case No. 2021-CP-210-00966

Dominion Energy South  
Carolina Inc.

Respondent,

v.

Gail Kathy Andrews

Appellant Pro  
Se

NOTICE OF APPEAL

Gail Kathy Andrews appeals the orders of W. Haigh Porter dated December 1, 2021 and the order of April 6, 2023. Appellant received electronic notice of entry of these orders which are attached to this Notice of Appeal.

Dated: April 26, 2023

s/ Gail Kathy Andrews  
307 32<sup>nd</sup> Avenue South  
North Myrtle Beach, SC 29582  
Re: 2398 Willow Grove Road  
Pamplico, SC 29583

April 26, 2023 Gail Kathy Andrews

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Case No. 2021-CP-21-00966

Dominion Energy South Carolina, Inc                      Respondent,

v.

Gail Kathy Andrews    Appellant. Pro Se

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Dominion Energy by depositing a certified copy of it in the United States Mail, postage prepaid, on April 26, 2023, addressed to Dominion's attorney of record, Jessica Clancy Crowson, 1901 Main Street, Suite 1200, Columbia, SC 29211, Attorney for Condemnor.

s/ \_\_\_\_\_  
Gail Kathy Andrews  
Appellant Pro Se  
307 32<sup>nd</sup> Avenue South  
North Myrtle Beach SC 29582  
Re: 2398 Willow Grove Road  
Pamplico, SC 29583

April 26, 2023 Gail Kathy Andrews

STATE OF SOUTH CAROLINA  
 COUNTY OF FLORENCE  
 Dominion Energy South Carolina, Inc.,  
 Condemnor,  
 v.  
 Kathy Andrews a/k/a Gail K. Andrews,  
 Landowner,  
 and  
 Bank of America, NA, National Banking  
 Association,  
 Other Condemnee.

IN THE COURT OF COMMON PLEAS  
 CIVIL ACTION NO.: 2021-CP-21-00966

**ORDER DENYING  
 MOTION TO DISMISS**

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 SC Court of Appeals

This matter came before this Court on November 28, 2022, for a hearing on a Motion to Dismiss filed by Landowner Kathy Andrews a/k/a Gail K. Andrews ("Andrews" or "Landowner") against Condemnor Dominion Energy South Carolina, Inc. ("DESC" or "Condemnor"). Present for the hearing was Jessica C. Crowson, counsel for Condemnor DESC. Neither Andrews, nor any other party, was present for or participated in the hearing. Based on the record before this Court and the arguments presented to me, the Motion to Dismiss is **DENIED.**

**Procedural History**

Based on the filed Order of Reference, this Court has jurisdiction over the parties and subject matter. This condemnation action was filed by DESC on May 7, 2021 to determine the amount of just compensation to be paid by DESC for the rights it seeks to acquire for public purposes on a parcel of real property in Florence County, as more fully set forth in the filed Condemnation Notice, which is specifically made a part hereof by reference.

A trial on the condemnation was scheduled to be heard on November 28, 2022.<sup>1</sup> However, prior to trial on November 4, 2022, Andrews filed a Motion to Dismiss, seeking an order dismissing the condemnation action based upon her allegations she was never properly served with the condemnation pleadings. DESC filed a Response to the Motion to Dismiss, and Andrews filed several letters and additional responses in support of her Motion.<sup>2</sup>

Other Condemnee, Bank of America, NA, National Banking Association, did not respond, participate in, or take any position regarding the Motion to Dismiss.

### Arguments Presented at the Hearing

#### a. *Notice of Hearing on the Motion to Dismiss*

At the November 28, 2022 hearing, counsel for DESC first presented documentation evidencing that Andrews was served with proper notice of the scheduled hearing on the Motion to Dismiss, such documentation including proof that the notice of hearing was (i) mailed by certified mail with return receipt requested to Andrews' current mailing address, (ii) electronically sent and delivered to two (2) of Andrews' email addresses, and (iii) personally served on Andrews by a process server at one of her residences. This documentation was all attached as exhibits to DESC's filed Response, presented and marked as additional exhibits during the hearing, and/or already in the Court file.

#### b. *Service of Process of the Condemnation Pleadings*

Counsel then gave an overview of the applicable dates and steps DESC undertook to fulfill its obligations for service of process of both the unfiled and the filed condemnation

<sup>1</sup> This Court's determination regarding the status of the scheduled condemnation trial which was to be held on this same date is set forth in a separate Order under this same civil action number.

<sup>2</sup> Andrews' various letters and responses in support of her Motion also include unfounded allegations of nefarious acts by DESC and its counsel related to service of process. I take judicial notice that in DESC's filed Response to the Motion to Dismiss, counsel for DESC denies committing any such acts. As such, these allegations were not the focus of the hearing, and I decline to inquire or make any findings related to these allegations raised by Andrews.

pleadings upon Andrews, as required by the South Carolina Eminent Domain Procedure Act. Counsel presented supporting documentation, including (i) the signed and filed green cards and U.S. postal service tracking information confirming delivery of the unfiled and filed pleadings to Andrews' current mailing address; (ii) multiple letters and envelopes from Andrews listing the same address as Andrews' return address; (iii) a letter from Andrews using the same phrasing for the condemnation that DESC used in the pleadings; (iv) documentation that DESC exceeded the service of process requirements for the filed pleadings by sending those to Andrews by certified mail with return receipt requested, restricted delivery; and (v) portions of a recent deposition in which Andrews, as the deponent testifying under oath and sworn to tell the truth, testified that her address is 2398 Willow Grove Road, Pamplico, SC 29583. I take judicial notice that this address is the same address used by DESC in all its mailings to Andrews in its efforts to effect proper service upon Andrews. This documentation was all attached as exhibits to DESC's filed Response, presented and marked as additional exhibits during the hearing, and/or already in the Court file.

Additionally, counsel presented arguments and cited South Carolina caselaw in support of DESC's contention that service of process for the condemnation pleadings complied with the applicable rules for service of process and that, pursuant to South Carolina caselaw, to defeat the Motion to Dismiss, DESC need only show that it complied with the rules for service of process required by the Eminent Domain Procedure Act. When these rules are followed, there is a presumption of proper service and a motion to dismiss based on insufficiency of service fails.

Based upon all of the foregoing, counsel requested the Motion to Dismiss be denied.

### Findings of the Court

After having heard from counsel for DESC and having reviewed the filed Motion, filed DESC Response, additional letters and written responses from Andrews, exhibits, and all supporting documents, exhibits, and caselaw presented to me during the hearing and in the court file, I find as follows:

1. Andrews had proper notice and was properly served with the notice of hearing on her Motion to Dismiss. I base this finding upon the documentation presented to me and in the court file evidencing the multiple methods counsel for DESC undertook to provide such notice to Andrews, specifically the Affidavit of personal service on Andrews.
2. DESC met the test and fulfilled its burden by sufficiently showing it complied with the applicable rules for service of process of both the unfiled and filed condemnation pleadings. As such, there is a presumption of proper service. Although Andrews alleges she did not sign the filed green cards and was not properly served with the condemnation pleadings, South Carolina caselaw requires more than mere allegations and raised concerns as to adequacy of service. Upon a showing by a plaintiff of compliance with the rules for service of process, the burden then rests with a defendant to prove service was insufficient and that the receipt was signed by an unauthorized person. Andrews did not meet that burden, and as such, her Motion to Dismiss fails. I find the South Carolina caselaw on this point cited in DESC's filed Response to the Motion to Dismiss particularly instructive, specifically Roche v. Young Bros., Inc. of Florence, 318 S.C. 207, 210, 456 S.E.2d 897, 899 (1995) which, akin to this matter, originates from Florence County. Based upon all of the foregoing,

specifically the presumption of proper service when the rules for service of process are followed, I find that DESC's service of process of the condemnation pleadings upon Andrews was proper and effected service upon Andrews.

IT IS THEREFORE ADJUDGED AND HEREBY ORDERED that the Motion to Dismiss is DENIED.

AND IT IS SO ORDERED.

Florence, South Carolina  
\_\_\_\_\_, 2022.

\_\_\_\_\_  
The Honorable W. Haigh Porter  
Master in Equity, Florence County



Florence Common Pleas

**Case Caption:** Dominion Energy South Carolina Inc VS Kathy Andrews , defendant,  
et al  
**Case Number:** 2021CP2100966  
**Type:** Order/Other

So Ordered

s/Haigh Porter, 3082

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STATE OF SOUTH CAROLINA  
 COUNTY OF FLORENCE  
 Dominion Energy South Carolina, Inc.,  
 Condemnor,  
 v.  
 Kathy Andrews a/k/a Gail K. Andrews,  
 Landowner,  
 and  
 Bank of America, NA, National Banking  
 Association,  
 Other Condemnee.

IN THE COURT OF COMMON PLEAS  
 CIVIL ACTION NO.: 2021-CP-21-00966

**ORDER RESCHEDULING  
 CONDEMNATION TRIAL**

**RECEIVED**  
 MAY 01 2023  
 SC Court of Appeals

This matter came before this Court on November 28, 2022, for (i) a hearing on a Motion to Dismiss filed by Landowner Kathy Andrews a/k/a Gail K. Andrews (“Andrews” or “Landowner”) and (ii) a trial to determine the amount of just compensation in the underlying condemnation action. Present was Jessica C. Crowson, counsel for Condemnor Dominion Energy South Carolina, Inc. (“DESC” or “Condemnor”). Neither the Landowner, the Other Condemnee, nor any other party, was present.

A hearing on the Motion to Dismiss was conducted.<sup>1</sup> Based on my ruling that service of process upon Landowner Andrews was proper, in compliance with the rules, and sufficiently effected service upon Landowner Andrews, and to give adequate time for both Condemnor DESC and Landowner Andrews to more fully prepare, I hereby order that the trial to determine the amount of just compensation in the underlying condemnation action is rescheduled and will be held on the merits before me, as Master in Equity for Florence County, on **Tuesday, January**

<sup>1</sup> This Court’s ruling on the Motion to Dismiss is set forth in a separate Order under this same civil action number.

17, 2023 at 10:00 a.m. in Courtroom 3-C of the Florence County Courthouse, located at 181 N. Irby Street, Florence, South Carolina.

AND IT IS SO ORDERED.

Florence, South Carolina  
\_\_\_\_\_, 2022.

\_\_\_\_\_  
The Honorable W. Haigh Porter  
Master in Equity, Florence County



Florence Common Pleas

**Case Caption:** Dominion Energy South Carolina Inc VS Kathy Andrews , defendant,  
et al  
**Case Number:** 2021CP2100966  
**Type:** Order/Other

So Ordered

s/Haigh Porter, 3082

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PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

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North Myrtle Beach, SC  
29582

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