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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Ralph King Anderson, III, Chief Administrative Law Judge

Case No. 12-ALJ-30-0086-CC  
Appellate Case No. 2013-000114

International Paper Company, Inc., .....Appellant,

v.

South Carolina State Energy Office, .....Respondent.

MOTION TO HOLD APPELLATE  
TIMELINES IN ABEYANCE

The Appellant’s initial brief and designation in the present appeal are currently due July 22, 2013. The Appellant moves to hold this deadline in abeyance upon the grounds set forth below.

1. There is a pending Circuit Court action between the same parties that involves the same basic question as the present appeal.
2. On May 23, 2013, the Circuit Court granted the Respondent’s motion to dismiss.
3. Appellant moved to alter or amend the order of dismissal, and the Circuit Court heard the motion on July 15, 2013.
4. Appellant anticipates receiving an order from the Circuit Court that either denies the Appellant’s motion, or grants it in part but nevertheless dismisses the action. Appellant anticipates receiving this order in the very near future – the Circuit Court issued its prior order

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one week after the hearing. Appellant will appeal this order and then move to consolidate that appeal with the current appeal.

5. Taken together, the two appeals will present the overriding question of whether the Circuit Court or the ALC has subject matter jurisdiction to review the determinations of the Respondent, South Carolina State Energy Office, on certification of a tax credit granted by S.C. Code Ann. § 12-6-3620. Consolidating these appeals will result in a single Record on Appeal and a single set of appellate briefs that: (1) more concisely present the issues than would separate appeals that are consolidated after briefing; and (2) as a result, best conserves the time and resources of this Court and the parties.

Based on the foregoing, Appellant moves to hold in abeyance the timelines for perfecting the current appeal as follows:

1. Appellant will immediately notify this Court upon receiving written notice of the entry of an order by the Circuit Court.

2. If the forthcoming order dismisses the Circuit Court action, which is the anticipated ruling, Appellant will appeal immediately<sup>1</sup> and move to consolidate that appeal with the present appeal. If consolidation is granted, Appellant's initial brief and designation would be due thirty (30) days after receiving the hearing transcripts.<sup>2</sup> If consolidation is denied, Appellant's initial brief and designation would be due fifteen (15) days after receiving this Court's order denying consolidation.

3. If the Circuit Court reverses itself and denies the motion to dismiss, which is not an anticipated result, Appellant's initial brief and designation would be due fifteen (15) days after the Appellant receives written notice of the entry of that order.

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<sup>1</sup> Appellant does not anticipate any circumstances requiring a successive 59(e) motion.

<sup>2</sup> Two hearing transcripts are needed for the appeal – Appellant has already ordered both transcripts.

Respectfully Submitted,



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Attorneys for Appellant

July 22, 2013  
Columbia, SC

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In The Court of Appeals

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CERTIFICATE OF SERVICE

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I, Ann Shuler, an employee of McNair Law Firm, certify that I served the Appellant's Motion to Hold Timelines in Abeyance by placing a true and correct copy in the U.S. Mail, sufficient postage pre-paid to counsel of record at the addresses shown below, on July 22, 2013:

Keith McCook, Esq.  
Frank S. Potts, Esq.  
Office of General Counsel  
State Budget and Control Board  
1201 Main Street, Suite 410  
Columbia, South Carolina 29211

  
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Ann Shuler