RECEIVED
Jan 10 2024
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Ralph King Anderson, III
Administrative Law Judge

Appellate Case No. 2023-001351

BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE, APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND DOMINION ENERGY, RESPONDENTS.

RETURN TO APPELLANT'S EMERGENCY PETITION FOR WRIT OF SUPERSEDEAS AND MOTION FOR EXPEDITED HEARING

December 22, 2023

Pursuant to Rule 240(e) of South Carolina's Appellate Court Rules ("SCACR") and this Court's letter dated December 12, 2023, Dominion Energy South Carolina, Inc.[1] ("Dominion" or "Company"), through counsel, respectfully submits this return to Appellant Blue Ridge Environmental Defense League's ("Appellant" or "BREDL") Emergency Petition for Writ of Supersedeas and Motion for Expedited Hearing ("Petition") for an emergency order granting supersedeas of the South Carolina Administrative Law Court's ("ALC") Final Order, the appeal of which is currently pending before this Court. For the reasons discussed more fully below, Dominion respectfully asks the Court to deny the Petition in its entirety and dismiss BREDL's appeal as moot.

BACKGROUND

In this appeal, BREDL challenges the Final Order of the ALC affirming the decision of the South Carolina Department of Health and Environmental Control ("DHEC") to issue Dominion a Section 401 Water Quality Certification ("Certification") pursuant to S.C. Code Ann. Regs. § 61-101. DHEC issued the Certification in connection with Dominion's application for coverage under Nationwide Permit 12, Oil or Natural Gas Pipeline Activities ("NWP 12"),[2] on February 4, 2022. NWP 12 allows Dominion to install a natural gas main under Jefferies Creek and in Mills Branch, Bigham Branch, Briar Branch, Barfield Mill Creek, Bullock Branch, and wetlands and unnamed tributaries to the Great Pee Dee River in Florence County, South Carolina ("Project"). BREDL requested a final review conference with DHEC's Board, which the Board denied, rendering the staff decision the final agency decision.

[1] Dominion Energy South Carolina, Inc. is a wholly owned subsidiary of Dominion Energy, Inc.

[2] NWP 12, issued by the United States Army Corps of Engineers ("Corps") pursuant to 33 U.S.C. § 1344 ("Section 404"), authorizes discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of oil and natural gas pipelines. Like other Section 404 permits issued by the Corps, NWP 12 requires that the State certify that the activity will comply with applicable water quality requirements. *See* 40 C.F.R. § 121.3.

BREDL then filed a Request for Contested Case Hearing with the ALC on April 13, 2022. The ALC conducted a hearing in this matter from February 27 – March 1, 2023, and issued the Final Order on July 24, 2023.

BREDL filed a Notice of Appeal with this Court on August 23, 2023. Then, on September 18, 2023, counsel for BREDL filed a Motion to Withdraw as Counsel and Extend the Briefing Schedule ("Withdrawal Motion"), which Dominion did not oppose. The Court granted the Withdrawal Motion on November 20, 2023, allowing BREDL 30 days to find new counsel. BREDL's current counsel (Attorneys Jesse Sanchez and Stephen A. Spitz) filed a Notice of Appearance on November 21, 2023, and then requested a 30-day extension to file Appellant's Initial Brief and Designation of Matter. Again, Dominion did not oppose the requested extension, which the Court granted on December 6, 2023, extending the deadline by which BREDL must file its Initial Brief and Designation of Matter until January 22, 2024. BREDL filed the Petition on December 11, 2023.

ARGUMENT

I. The Corps' Issuance of the Section 404 Permit Moots the Issues in this Appeal.

Once the Corps issued the Section 404 Permit to Dominion, the issues raised in the appeal of the Certification became moot. As discussed above, Dominion applied for coverage under NWP 12 from the Corps pursuant to 33 U.S.C. § 1344 ("Section 404"). NWP 12 authorizes discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of oil and natural gas pipelines. "The requirement for a [Section 404] permit from the Corps in turn triggers a requirement under [Section 401 (33 U.S.C. § 1341)] of the Clean Water Act for water quality certification that any discharge into navigable waters is consistent with federal and state

water quality standards." *Town of Arcadia Lakes v. S.C. Dep't of Health & Env't Control*, 404 S.C. 515, 522, 745 S.E.2d 385, 388 (Ct. App. 2013). "[Section 401] certification is required 'from the State in which the discharge originates or will originate.'" *Id.* (quoting 33 U.S.C. 1341(a)(1)). DHEC issued the Certification for the Project pursuant to this authority and S.C. Code Ann. Regs. § 61-101.

After the ALC issued the Final Order affirming the Certification on July 24, 2023, BREDL did not request that the ALC stay its decision. The Corps issued the Section 404 permit for the Project on October 10, 2023, *see* Ex. A, and in so doing rendered BREDL's challenges to the Certification moot. Indeed, in response to a request to stay a Section 401 certification for a different project, the ALC concluded that the Corps' issuance of the corresponding Section 404 permit mooted the appeal. *S.C. Coastal Conservation League v. S.C. Dep't of Health and Env't Control*, Docket No. 15-ALJ-07-0404-CC, 2016 SC ENV LEXIS 33, Order Denying Stay (Oct. 10, 2016).

In that case, the ALC affirmed the validity of a Section 401 certification issued by DHEC. Shortly after the ALC's decision, the Corps issued a Section 404 Permit. In response to the petitioner's motion to stay, the ALC held the following:

> Here, after the [ALC] issued its Final Order and Decision, the Federal Government decided to issue a Section 404 permit. Though the Federal Government provides the States an opportunity to participate in the federal permitting process under the [Clean Water Act]…the Federal Government has restricted the States' participation in this process to either concurring with certification by issuing a 401 Water Quality Certification…or doing nothing at all for a period of one year…or objecting to certification. A State is given no authority under federal law to review permitting decisions made by the Federal Government after the State has issued either an objection or certification. Therefore, it would fly in the face of our system of federalism, specifically under the Supremacy Clause in Article IV, clause 2 of the United States Constitution, to allow a State court to stay a project authorized by the Federal Government; and Petitioners have provided no authority to the contrary.

Id. at **9-10. The ALC further held that any stay it issued would not stay the activity authorized

by the Section 404 permit because the ALC's order did not authorize the activity in the first place. On the contrary, "it was the Federal Government, through the [Corps], that authorized construction of the road by issuing the Section 404 permit." Indeed, the Corps' issuance of the Section 404 permit was an intervening event that rendered the matter moot, and thus the purpose of Rule 241 would not be served by any stay. *Id.* at **13-14 (citing *S.C. Ret. Sys. Inv. Comm'n v. Loftis*, 402 S.C. 382, 384, 741 S.E.2d 757, 758 (2013) ("A case is moot where a judgment rendered by the Court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the Court.").[3]

Because nearly identical circumstances exist here, this Court should find that BREDL's challenge to the Certification became moot once the Corps issued the Section 404 permit to Dominion. "There is no language in the [Section 404] permit or federal law that requires the Corps to reevaluate – or even suggest that the Corps would reevaluate – its permitting decision based on a State court's stay of [DHEC's] certification decisions." *Id.* at **12-13. Dominion's Section 404 permit, not the ALC's Final Order affirming the Certification, authorized Dominion to begin construction on the Project. Further, there is no evidence or authority suggesting that the Corps must or even would reconsider its permitting decision with respect to the Section 404 permit, so the Court should deny the Petition because BREDL's challenges to the Certification are moot.

Because BREDL's challenges to the Certification are moot, Dominion respectfully

[3] *See also, e.g., Minn. Ctr. for Env't Advocacy v. Minn. Pollution Control Agency*, Case No. C4-97-1676, 1998 Minn. App. LEXIS 953, at **5-6 (Ct. App. Aug. 18, 1998) (holding that the Corps' issuance of a Section 404 permit rendered moot a decision on the appeal of Section 401 certification because the state court's determination as to the validity of the Section 401 certification would have no legal effect nor would it impact the permittee's ability to go forward with the project); *City of Shoreacres v. Tex. Comm'n on Env't Quality*, 166 S.W.3d 825, 838 (3d. Ct. App. 2005) (holding that challenges to Section 401 certification became moot upon the Corps' issuance of a Section 404 permit because the petitioners' requested relief would not have had a practical legal effect on the controversy due to the state agency's inability to alter the Section 404 permit). *See also Keating v. FERC*, 927 F.2d 616, 624 (D.C. Cir. 1991) (holding that "disputes over [the validity of Section 401 certifications], *at least so long as they precede the issuance of any federal license or permit*, are properly left to the states themselves.") (emphasis in original).

requests that the Court dismiss the appeal entirely. *See, e.g., Nolas Trading Co. v. S.C. Dep't of Health & Env't Control*, 289 S.C. 345, 348, 345 S.E.2d 507, 508 (1986) ("Where questions presented by an appeal are moot, the appeal will be dismissed."); *Skydive Myrtle Beach, Inc. v. Horry Cnty.*, 424 S.C. 298, 303, 818 S.E.2d 224, 227 (Ct. App. 2018) (dismissing appeal where issues presented became moot).

II. No Extraordinary Circumstances Excuse BREDL's Failure to First Petition the ALC for a Writ of Supersedeas.

Even if the Court determines that the issues in this appeal are not moot, BREDL failed to present any evidence of extraordinary circumstances excusing its failure to first petition the ALC for a supersedeas. Generally, the service of a notice of appeal in a civil matter automatically stays matters decided in the decision on appeal for the duration of such appeal unless lifted by order of the lower tribunal. Rule 241(a), SCACR. There are several exceptions to that general rule, including (in relevant part) appeals from administrative tribunals as provided in S.C. Code §§ 1-23-380(A)(2), 1-23-600(G)(5), and 1-23-610(A)(2). BREDL does not argue that its Notice of Appeal automatically stayed the ALC's Final Order, nor can it.

BREDL should have first applied for a writ of supersedeas from the ALC. Indeed, "[e]xcept where extraordinary circumstances make it impracticable, an application for… supersedeas must first be made to the lower court or administrative tribunal which entered the order or decision on appeal." Rule 241(d)(1), SCACR. Normally, petitions for writs of supersedeas must include "a showing that an application for this relief was made to the lower court or administrative tribunal, and was unjustifiably denied or that the relief granted failed to afford the relief which the petitioner requested." *Id.* at Rule 241(d)(4)(C). Where no such application was made to the lower court or tribunal, the petition "shall state the extraordinary circumstances which made it impracticable to make such an application." *Id.*

BREDL bears the burden of proof that a supersedeas or stay of the ALC's Final Order is warranted. *See Midlands Util., Inc. v. S.C. Dep't of Health & Envtl. Control*, 287 S.C. 483, 486, 339 S.E.2d 862, 864 (1986). The SCACR do not define "extraordinary circumstances" as used in the context of a writ of supersedeas. Rule 241(d)(1) states only that "[t]he issuance of an ex parte order or decision, or an unnecessary delay by the lower court or administrative tribunal in ruling on [an application for a writ of supersedeas] shall constitute an extraordinary circumstance." Neither of those circumstances is present here, nor anything else even remotely close thereto.

Indeed, BREDL simply states that "[e]xtraordinary circumstances exist" because "Appellant received notice from [Dominion] that it is commencing work on the [Project], which is the very subject of the instant Appeal." Petition at 1.[4] BREDL offers no explanation or authority supporting its contention that Dominion starting construction suffices as an extraordinary circumstance justifying BREDL's failure to petition the ALC to stay its decision. As noted above, the ALC issued its Final Order on July 24, 2023, affirming the Certification. BREDL knew, or should have known, that Dominion could begin construction on the Project as soon as the Corps issued the Section 404 permit. Nothing precluded BREDL from seeking a stay or writ of supersedeas from the ALC as soon as the Final Order was issued or any time during the two and a half months before the Corps issued the Section 404 permit on October 10, 2023. On the contrary, BREDL timely filed its Notice of Appeal, but elected not to move the ALC to stay its decision at that time. *See* Rule 241(c)(1), SCACR.

BREDL had ample time to petition the ALC for a stay, and it has not offered *any* explanation justifying its failure to do so, let alone an explanation that rises to "extraordinary circumstances." Receiving notice that Dominion intends to begin construction of the Project in

[4] Dominion sent the notice referenced here as a courtesy, not because it is a requirement.

the coming weeks did not prevent BREDL from previously petitioning the ALC for the relief it now inappropriately seeks from this Court. Accordingly, the Court should reject the Petition in its entirety.

III. The Petition is Fails to Comply with the Requirements of Rule 241.

Even if the Court were to determine that BREDL has adequately demonstrated the existence of "extraordinary circumstances" excusing its failure to petition the ALC for a writ of supersedeas (which it has not), the Petition is fatally flawed.

Rule 241(d)(4)(A) requires the moving party to describe the factual background necessary to understand the petition, supported by affidavits or other sworn statements where facts are in dispute. BREDL's Petition, however, does not specifically reference *any* of the ALC's Findings of Fact, much less dispute them. Even if the Petition could be read to dispute the ALC's Findings of Fact, BREDL only provided one generic verification from its Executive Director, Gail Kathy Andrews. Although she previously testified that she owns property bordering Jefferies Creek and that she and her family have used neighboring waters to boat and fish, Final Order at 3-4, Ms. Andrews does not have any specialized education or experience qualifying her to opine on highly technical issues relating to natural gas pipeline engineering and environmental impacts. Indeed, Ms. Andrews' verification does not even attempt to dispute any of the ALC's Factual Findings.

BREDL must also identify "the grounds for the petition, and legal arguments with supporting points and authority[.]" Rule 241(d)(4)(B). Instead, BREDL offers broad conclusory statements about its concerns with the purported impacts of the Project, and claims that it "is informed and believes that DHEC staff's decision was made in violation of applicable statutes, regulations and rules contained in the 401 Water Quality Regulations and R. 19-450 Regulations." Petition at 3. BREDL next states that the purpose of its appeal is to address *whether* the

Certification violates various DHEC regulations, but provides no legal arguments with supporting authority explaining *how* the Certification does so, or *why* the ALC's Final Order is wrong. Petition at 3-4. Instead, it simply recycles generic statements about BREDL's concerns with the Project, devoid of any substantive legal arguments.

Finally, "[i]n addition to the petition and verification, the moving party must contemporaneously file…a copy of the notice of appeal with its proof of service." Rule 241(d)(3), SCACR. BREDL did not include a copy of the notice of appeal with its proof of service.

Because the Petition fails to comply with Rules 241(d)(3) and (d)(4)(A-B), the Court should deny the Petition.

IV. A Writ of Supersedeas is Not Necessary to Preserve Jurisdiction or to Prevent a Contested Issue from Becoming Moot.

As discussed above, the Corps' issuance of the Section 404 permit mooted the issues in this appeal. Even if the Court disagrees, however, a writ of supersedeas is not necessary to preserve jurisdiction or allow the Court to grant effectual relief to BREDL. Before issuing a writ of supersedeas, the court or tribunal "should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot." Rule 241(c)(2), SCACR. BREDL does not allege that a writ of supersedeas is necessary to preserve jurisdiction of the appeal, but rather that "completion of the [P]roject would make it impossible for the reviewing court to grant effectual relief." Petition at 5-6. In other words, BREDL alleges that the Project will cause "irreparable harm" because of its purported "environmental and social impacts" that "cannot be undone once the [P]roject is commenced and/or completed." *Id.* at 1, 5-6. But BREDL's argument here misses the mark because the purported environmental and social impacts constituting the "irreparable harm" BREDL will suffer if Dominion begins construction on the Project *can* be relieved by the Court if BREDL prevails on appeal.

BREDL identifies temporary excavation and temporary clearing impacts authorized by the Certification. *Id.* at 2-3. By definition, "temporary" impacts are not permanent. For example, once work is completed at the sites where temporary clearing impacts are expected to occur, those sites will be stabilized and allowed to revegetate naturally. Relatedly, the Court could require Dominion to comply with additional mitigation requirements. Accordingly, any purported harms associated with temporary impacts are not irreparable.

Second, even the permanent impacts are not irreparable. For example, if Dominion begins construction of the Project, and BREDL prevails on its appeal, Dominion could abandon or remove installed segments of the Project and restore any affected areas. BREDL, who shoulders the burden of proof, has not submitted any affidavits or other sworn statements from individuals qualified to opine on potential impacts, nor explained why the purported environmental and social impacts could not be remediated if BREDL prevails.

Because BREDL did not (and cannot) show that allowing Dominion to begin constructing the Project during the pendency of this appeal will make it impossible for the Court to grant effectual relief if BREDL prevails, the requested writ of supersedeas is not necessary to prevent a contested issue from becoming moot. *See* Rule 241(c)(2), SCACR. Accordingly, the Court should deny the Petition.

V. The Court Should Not Stay the Final Order and Hold it In Abeyance.

As an alternative to the requested writ of supersedeas, BREDL asks the Court to "issue an order temporarily staying the [Final Order] and holding the instant matter in abeyance until further determination can be made by this Court." Petition at 6. BREDL cites no authority for the requested stay, nor offers any independent justification therefor. For this reason alone, the Court should deny it.

S.C. Code § 1-23-380(A)(2) allows an agency or the reviewing court (including the ALC) to issue "a stay upon appropriate terms, upon the filing of a petition under Rule 65 of the South Carolina Rules of Civil Procedure ["SCRCP"]. SCALC Rule 29(E), which is derived from S.C. Code § 1-23-380(A)(2), authorizes an administrative law judge to stay a final order subject to judicial review with appropriate terms upon the motion of any party, provided such motion is filed prior to the filing of a petition for judicial review. BREDL did not move the ALC for a stay before noticing this appeal, so this provision cannot support the Petition.

SCRCP Rule 65 addresses the requirements for a preliminary injunction, for which the petitioner must establish that: (1) it would suffer irreparable harm if the injunction is not granted; (2) it will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law. *Scratch Golf Co. v. Dunes West Residential Golf Props.*, 361 S.C. 117, 121, 603 S.E.2d 905, 908 (2004). The ALC has applied this standard in considering a petition for a writ of supersedeas to stay a final order. *See, e.g., Richland Cnty. School Dist. One Bd. of Commn'rs v. Clear Dot Charter School*, Docket No. 19-ALJ-30-0036-AP, 2019 SC ALJ LEXIS 178, Order Denying Petition for Writ of Supersedeas, at *2 (July 17, 2019). Applying the three-pronged standard here, the Court must deny the Petition.

The only element BREDL even attempts to address is the irreparable harm that would purportedly befall BREDL if Dominion begins construction. As discussed above, however, BREDL's alleged harms are not irreparable at all because Dominion could remove any installed segments of the Project and restore the impacted areas or provide additional mitigation. *Supra* 9-10. With respect to BREDL's likelihood of success on the merits of the appeal, the Petition is completely silent. BREDL does not offer a single legal argument or authority explaining why the Final Order should be reversed.

Finally, with respect to the adequacy of available legal remedies, BREDL claims that construction of the Project will cause irreparable harm that the Court cannot relieve if BREDL prevails on appeal. However, as explained above, the Court *can* effectively address BREDL's allegations about purported social and environmental impacts. *Supra* 9-10. Further, BREDL could have asked the ALC to stay the Final Order before filing its Notice of Appeal but did not. Even if BREDL did so in a timely and procedurally correct manner, however, its challenges to the Certification became moot upon the Corps' issuance of the Section 404 permit. *Supra* at 3-6. For the above reasons, the Court should reject the Petition in its entirety.

VI. If the Court Grants the Petition, Any Writ of Supersedeas or Stay Should be Conditioned on Appropriate Terms.

Rule 241(c)(3) permits the Court to condition the granting of a writ of supersedeas "upon such terms, including both not limited to the filing of a bond or undertaking, as the…appellate court…may deem appropriate." *See also* S.C. Code § 1-23-610(A)(2) ("Upon motion, the administrative law judge may grant, or the court of appeals may order, a stay upon appropriate terms."). If the Court issues a supersedeas or otherwise stays Dominion's construction of the Project pending the appeal, Dominion respectfully requests that the Court impose the following conditions.

First, Rule 241(c)(1) states that "[t]he effect of the granting of a supersedeas is to suspend or stay the matters decided in the order, judgment, decree or decision on appeal[.]" Accordingly, if the Court grants the Petition or otherwise stays construction of the Project pending appeal, any supersedeas or stay should be limited to those portions of the Project for which a Section 404 permit is needed.

Second, delaying Project construction during the pendency of the appeal will significantly increase Dominion's cost of providing natural gas to the area served by the existing pipeline

system. Dominion demonstrated without contradiction in the ALC that it was already supplementing pipeline-supplied natural gas with liquid natural gas ("LNG") during the coldest months in the Myrtle Beach area. Final Order at 4-5. Dominion's witnesses also testified—again without contradiction—that the population in the Myrtle Beach area is rapidly increasing. *Id.* Each year of delay results in additional costs. More details concerning these financial impacts are included in the attached affidavit of Zachary West. *See* Ex. B. Accordingly, Dominion respectfully requests that the Court impose a supersedeas bond of at least $2.8 million if Dominion may not begin construction during the pendency of the appeal. This amount is conservatively based on the costs that Dominion expects to incur to supplement its natural gas system with LNG if the Court resolves this appeal in two years.

CONCLUSION

For the reasons set forth above, Dominion respectfully requests that the Court deny BREDL's Petition in its entirety. Additionally, because the Corps' issuance of the Section 404 permit renders BREDL's challenge moot, Dominion respectfully requests that the Court dismiss BREDL's appeal. If, however, the Court grants the Petition or otherwise stays construction of the Project, Dominion respectfully requests that the Court limit such order to only those portions of the Project for which a Section 404 permit is required, and direct BREDL to post a supersedeas bond in the amount of $2.8 million.

Dated: December 22, 2023

Respectfully submitted,

DOMINION ENERGY, INC.

By: /s/ Elizabeth B. Partlow
Elizabeth B. Partlow (S.C Bar No. 4348)
LAW OFFICES OF ELIZABETH B. PARTLOW, LLC
1800 Platt Springs Road
West Columbia, SC
Telephone: (803) 814-0868
E-mail: beth@partlowlaw.com

Brooks M. Smith, admitted *pro hac vice*
Troutman Pepper Hamilton Sanders LLP
1001 Haxall Point, 15th Floor
Troutman Pepper Building
Richmond, VA 23219
Telephone: (804) 697-1414
E-mail: brooks.smith@troutman.com

Counsel for Respondent Dominion Energy, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2023, I forwarded via electronic mail a true and correct copy of Dominion's Return to Appellant's Emergency Petition for Writ of Supersedeas and Motion for Expedited Hearing to the following counsel of record:

Stephen A. Spitz, Esq.
164 Market Street, Suite 157
Charleston, SC 29401
stephenspitz994@gmail.com

Jesse Sanchez, Esq.
The Law Office of Jesse Sanchez, LLC
751 Johnnie Dodds Boulevard, Suite 200
Mount Pleasant, SC 29464
jesse@jessesanchezlaw.com

Bennett Smith, Esq.
Office of General Counsel
SCDHEC
2600 Bull Street
Columbia, SC 29201
smithbw@dhec.sc.gov

/s/ Elizabeth B. Partlow

Elizabeth B. Partlow (S.C Bar No. 4348)
LAW OFFICES OF ELIZABETH B. PARTLOW, LLC
1800 Platt Springs Road
West Columbia, SC
Telephone: (803) 814-0868
E-mail: beth@partlowlaw.com

Counsel for Dominion Energy, Inc.

RECEIVED
Jan 10 2024
SC Court of Appeals

CERTIFICATE OF SERVICE

The undersigned certifies that on January 10, 2024, she served Respondent Dominion Energy's Motion to Amend Return to Correct Typographical Error and attached amended Return via electronic mail upon the following counsel:

For Appellant Blue Ridge Environmental Defense League:

Jesse Sanchez, Esq. (jesse@jessesanchezlaw.com)

Stephen A. Spitz, Esq. (stephenspitz994@gmail.com)

For Respondent South Carolina Department of Health and Environmental Control:

Bennett W. Smith, Esq. (smithbw@dhec.sc.gov)

Christopher P. Whitehead, Esq. (whitehcp@dhec.sc.gov)

Sara Volk Martinez, Esq. (martinsv@dhec.sc.gov)

/s/ Elizabeth B. Partlow

Elizabeth B. Partlow (S.C Bar No. 4348)
LAW OFFICES OF ELIZABETH B. PARTLOW, LLC
1800 Platt Springs Road
West Columbia, SC
Telephone: (803) 814-0868
E-mail: beth@partlowlaw.com

Counsel for Dominion Energy, Inc.

LAW OFFICES OF
Elizabeth B. Partlow, LLC

1800 Platt Springs Road
West Columbia, South Carolina 29169
803.814.0868
beth@partlowlaw.com

January 10, 2024

Via email to ctappfilings@sccourts.org

The Honorable Jenny Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: *Blue Ridge Environmental Defense League v. SCDHEC and Dominion Energy*
Appellate Case No. 2023-001351

Dear Ms. Kitchings:

Enclosed for filing on behalf of Dominion Energy are the following documents:

1. Dominion Energy's Motion to Amend Return to Correct Typographical Error;
2. Corrected Return of Dominion Energy to Appellant's Emergency Petition; and
3. Proof of Service by Electronic Means.

We are putting in today's mail a copy of this letter with our check in the amount of $50.00 for the filing fee. If you have any questions, please contact me. With kind regards, I am

Sincerely,

s/ Elizabeth B. Partlow

Enclosures
cc: Jesse Sanchez, Esq. (via email)
Stephen A. Spitz, Esq. (via email)
Bennett Smith, Esq. (via email)
Christopher P. Whitehead, Esq. (via email)
Sara Volk Martinez, Esq. (via email)