

The South Carolina Court of Appeals

Blue Ridge Environmental Defense League, Appellant,

v.

South Carolina Department of Health and Environmental
Control and Dominion Energy, Respondents.

Appellate Case No. 2023-001351

ORDER

Blue Ridge Environmental Defense League (BREDL) filed an emergency petition for writ of supersedeas and a motion for expedited hearing of its emergency petition. BREDL moved for an order granting supersedeas of the administrative law court's final order, which is currently on appeal. The final order determined BREDL failed to show by a preponderance of the evidence that the South Carolina Department of Health and Environmental Control (SCDHEC) should not issue a Section 401 Water Quality Certification to Dominion Energy (Dominion).

SCDHEC filed a letter in lieu of a return, taking no position on the emergency petition. Dominion filed a return, requesting this court deny the emergency petition for writ of supersedeas and dismiss the appeal as moot.¹ BREDL filed a reply to the return.² Dominion then filed a motion to file sur-reply. We grant Dominion's motion to file sur-reply.

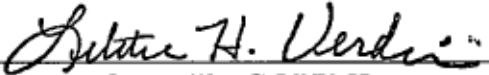
After careful consideration of the petition, amended return, amended reply, and sur-reply, we grant expedited hearing of the emergency petition. Next, we deny Dominion's request to dismiss the appeal as moot. Nothing in this order prevents Dominion from arguing the appeal is moot in its brief, however.

Finally, we remand the petition for writ of supersedeas to the administrative law court for its consideration of Appellant's emergency petition for writ of

¹ Dominion's motion to amend its return is granted.

² BREDL's motion to amend its reply is granted.

supersedeas. *See* Rule 241(d)(1), SCACR ("Except where extraordinary circumstances make it impracticable, an application for an order lifting the automatic stay or for supersedeas must first be made to the lower court or administrative tribunal which entered the order or decision on appeal."). We hold this appeal in abeyance and remand to the administrative law court to hear Appellant's petition for supersedeas on an expedited basis and issue an order setting forth findings of fact and conclusions law. The parties shall notify this court immediately upon the issuance of an order and Appellant may then renew its petition with this court.


FOR THE COURT

Columbia, South Carolina

cc:

Bennett W. Smith, Esquire
Christopher Patrick Whitehead, Esquire
Sara Volk Martinez, Esquire
Elizabeth B. Partlow, Esquire
Brooks M. Smith, Esquire
Jesse Sanchez, Esquire
Stephen A. Spitz, Esquire

FILED
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