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RECEIVED

FEB 27 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

\_\_\_\_\_  
Dominion Energy South Carolina, Inc., Respondent,

v.

Kathy Andrews a/k/a Gail K. Andrews, Appellant,

and

Bank of America, NA, National Banking Association, Defendant.

Appellate Case No. 2023-001004

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**MOTION FOR DISMISSAL**

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Respondent, through its undersigned attorney, hereby moves this Court for an Order dismissing Appellant's notice of appeal filed June 20, 2023, and Appellant's "motion for full hearing of landowner pro se appeal as of right" filed August 17, 2023, as both fail to comply with the basic requirements of the South Carolina Appellate Court Rules.

**Background and Procedural History**

On May 31, 2023, the Master-In-Equity issued an order in the underlying action approving the condemnation. (See Exhibit A, Order Approving Condemnation filed May 31, 2023). On June 20, 2023, Appellant filed the notice of appeal, appealing the May 31, 2023 order and also a prior Master-In-Equity order from December 1, 2022. With the notice of appeal, Appellant included a purported proof of service; however, the envelope she enclosed showed service only on the Court of Appeals, not on the Respondent's counsel. (See Exhibit B, Copy of

Notice of Appeal, downloaded from Court of Appeals website).

By letters dated June 23, 2023 and July 7, 2023, the Court of Appeals wrote the Appellant requesting proof of service of the notice of appeal upon the Respondent's counsel. (See Exhibit C, Letters from the Court of Appeals to Appellant dated June 23, 2023 and July 7, 2023). The Court's July 7, 2023 letter provided that the "proof of service [did] not provide the date you served your notice of appeal on the respondent's counsel" and gave ten days to provide the date or else the appeal would be dismissed. On July 17, 2023, Appellant responded saying the "original proof of service to Jessica Crowson had a typo saying the appellate brief was being sent to her. This was corrected, a correct copy has been sent to you . . . but the date when it was originally mailed to her has not changed." Handwritten, on the bottom of the Appellant's letter, it states: "Please see enclosed. It was dated June 15, 2023." The copy of the enclosed envelope was again *only* addressed to the Court of Appeals, and not to the Respondent's counsel. (See Exhibit D, Letter from Appellant filed July 17<sup>th</sup>, 2023).

Subsequently, on August 17, 2023, the Appellant filed a "Motion for Full Hearing of Landowner Pro See Appeal As of Right". (See Exhibit E, Copy of Appellant's Motion). By letter dated August 21, 2023, counsel for the Respondent wrote to the Court of Appeals Clerk of Court informing her that she had never been served with Appellant's notice of appeal (See Exhibit F, Letter from Respondent's Counsel to Clerk of Court). The Court of Appeals sent an additional deficiency letter to the Appellant on September 6, 2023, again requesting the Appellant provide proof of service upon the Respondent's counsel. (See Exhibit G, Letter from Court of Appeals dated September 6, 2023). On September 18, 2023 the Appellant filed purported proof of service, with a copy of an enclosed envelope that was again *only* addressed to the Court of Appeals, and not to the Respondent's counsel. Handwritten, on the bottom of

Appellant's purported proof of service it states: "You are already in possession of the proof of service, but here it is again." (See Exhibit H, Filing from Appellant dated September 18, 2023).

The Court ultimately granted Appellant's motion in its December 7, 2023 Order. For the reasons set forth below, Respondent asks this Court to dismiss the appeal and dismiss the "Motion for Full Hearing of Landowner Pro Se Appeal as of Right."

### Arguments

#### A. Appellant failed to timely serve her notice of appeal.

In numerous deficiency letters, this Court has repeatedly requested the Appellant provide proof of service of the notice of appeal on the Respondent's counsel. In response to these requests, the Appellant has repeatedly provided to the Court a copy of an envelope addressed only to the Court of Appeals, and not Respondent's counsel. Respondent's counsel has written to the Court and affirmatively stated she has never been served with the notice of appeal. Thus, this Court has all the necessary facts to make the determination that Appellant failed to timely serve the notice of appeal of the May 2023 and December 2022 orders and a hearing is not necessary or appropriate.

An Appellant is required to serve the notice of appeal, and the notice of appeal "shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment" being appealed. Rule 203(a) and 203(b), SCACR. It is critical that the notice of appeal be timely served because, unlike the filing of the notice of appeal, the service of the notice of appeal is jurisdictional and therefore the appellate court cannot extend the time for serving the notice of appeal. See 263(b), SCACR ("The time prescribed by these Rules for performing any act *except the time for serving the notice of appeal* under Rules 203 and 243 may be extended ...." (emphasis added)); *Ex Parte Sadisco of Greenville, Inc. v. Greenville Cnty. Bd.*

*of Zoning Appeals*, 340 S.C. 57, 530 S.E.2d 383 (2000) (“This Court has consistently stated that service of the notice of appeal is a jurisdictional requirement, and this Court has no authority to extend or expand the time in which the notice of appeal must be served.”); *see also Elam v. S.C. Dep’t of Transp.*, 361 S.E. 9, 602 S.E.2d 772 (2004) (“The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority to discretion to ‘rescue’ the delinquent party by extending or ignoring the deadline for service of the notice.”); *Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985).

**B. Appellant’s Appeal and Motion should be dismissed for failure to comply with this Court’s December 7, 2023 Order.**

This Court’s December 7th, 2023 Order provides that the Appellant was required to order the transcript within ten days and “[f]ailure to do so may result in the dismissal of this appeal.” To date, Appellant has failed to order a copy of the transcript, and, therefore, the appeal and the motion should be dismissed for failure to order the transcript. Further, South Carolina Appellate Court Rule 207(a)(1) requires an appellant to order a transcript within ten days after service of the notice of appeal. Even though Appellant failed to serve the notice of appeal on Respondent, the fact remains the appeal has been pending since June of 2023, and Appellant has failed to order the transcript during all this time.

**C. The Notice of Appeal and Appellant’s Motion fail to comply with the form and content requirement of Rule 203(e) and Rule 267, SCACR.**

Rule 203(e) and Rule 267(a), SCACR require that the notice of appeal include all parties of record and contain the names, addresses, and telephone numbers of all attorneys of record and the names of the party or parties represented by each. The notice of appeal shall contain a statement of when the appealing party received notice of the order from which the appeal is

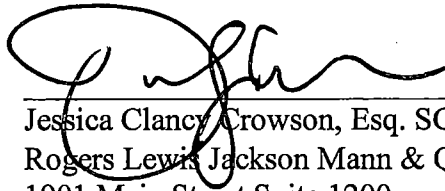
taken. Rule 203(e), SCACR. Neither Appellant's notice of appeal nor Appellant's motion include Bank of America, NA, National Banking Association, one of the parties in this matter. Further, neither Appellant's notice of appeal nor Appellant's motion include the names, addresses, or telephone numbers of any of the attorneys of record or the names of the parties represented by each. Appellant's motion does not comply with the requirements of Rule 240, SCACR in the following particulars:

- a. The pages of a motion and all supporting documents shall be consecutively numbered, Rule 240(c), SCACR. The Appellant's motion does not contain page numbers.
- b. The motion must include a certificate or affidavit of service reflecting the date of service upon all parties. The "original certificate or affidavit of service must be filed with the original motion" pursuant to Rule 240(c)(1). The Appellant's filed motion does not include a certificate or affidavit of service. The Court of Appeals requested such a certificate or affidavit of service by a letter dated September 6, 2023; however, the Appellant has still not provided or filed a certificate or affidavit of service.
- c. The motion must include a memorandum with citation of authorities in support of the motion, per Rule 240(c)(2), SCACR. The Appellant's motion does not have any such memorandum.
- d. Where the Record on Appeal or Appendix has not been filed, or where the facts relied upon in support of the motion are not contained in the Record on Appeal or Appendix, the parties shall file affidavits and other documents in support of their positions, pursuant to Rule 240(c)(3), SCACR. The Record on

Appeal or Appendix have not been filed yet in this matter, and the Appellant has not filed any affidavits or other documents in support of her position. Further, the Designation of Matter has not yet been filed and Appellant has not yet ordered the transcript.

- e. The moving party's failure to perform any act required by Rule 240 could cause the appellate court to consider the motion abandoned. Rule 240(g), SCACR.

The Appellant has failed to comply with the requirements as set forth by the South Carolina Appellate Court Rules, and as such, the Respondent requests that the Appellant's appeal and Appellant's "motion for full hearing of landowner pro se appeal as of right" be dismissed.



Jessica Clancy Crowson, Esq. SC Bar No.: 68626  
Rogers Lewis Jackson Mann & Quinn, LLC  
1901 Main Street Suite 1200  
Columbia, SC 29201  
(803) 256-1268  
jcrowson@rogerslewis.com  
*Attorney for Respondent, Dominion Energy South  
Carolina, Inc.*

February 27, 2024

**EXHIBIT A**

Master-In-Equity Order Approving Condemnation, filed May 31, 2023

Florence County, South Carolina  
Doris Poulos O'Hara Clerk of Court

180 North Irby Street MSC-E  
Florence, SC 29501  
Phone Number : (843) 665-3031

ELECTRONICALLY FILED - 2023 Jun 01 12:09:57 PM - FLORENCE COMMON PLEAS - CASE#2021CP2100966

Official Receipt : 2023-00005104

Printed On : 06/01/2023 at 12:09:57 PM

By : 24 on B-COC-2134

Customer :

ROGERS LEWIS JACKSON MANN AND QUINN LLC  
PO BOX 11803  
COLUMBIA, SC 29211

Date Recorded : June 01, 2023

Instrument ID	Recorded Time	Amount
Book : 1051 Page : 990	12:07:00 PM	\$0.00
Transaction : CONDEMNATION NOTICES		
Name(s) : ANDREWS, KATHY		
To : ANDREWS, KATHY		
Accounts		Amount
Deeds (Real Estate)		\$0.00
Total Due :		\$0.00
Change Tendered :		\$0.00

Case # 2021 CP 21 00966

THANK YOU

# Florence County Recording Page



Florence Clerk of Court  
Doris Poulos O'Hara  
180 North Irby Street MSC-E  
Florence, SC 29501  
(843) 665-3031

File Number : **2023-00006890**

Book : **1051** Page : **990**



Doc ID - 008405290016

On (Recorded Date) : **6/1/2023**  
At (Recorded Time) : **12:07:00 PM**

Recording Pages : **16**

Recording Fee : **\$0.00**

**Please keep this Cover Page with the Original Document**  
**This sheet is now part of this document, please leave attached.**

Index Type : **DEEDS**  
Type of Instrument : **DEED**  
Type of Transaction: **Condemnation Notices**

**First GRANTOR**

ANDREWS, KATHY

**First GRANTEE**

ANDREWS, KATHY

**Received From :**

ROGERS LEWIS JACKSON MANN AND QUINN  
LLC  
PO BOX 11803  
COLUMBIA, SC 29211

**Return To :**

ROGERS LEWIS JACKSON MANN AND QUINN LLC  
PO BOX 11803  
COLUMBIA, SC 29211

The attached document including this Cover Page was recorded in the County Recorder's office of  
Florence County, South Carolina

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

**FINAL ORDER APPROVING  
CONDEMNATION**

**Tract #3**

This matter came before this court on May 16, 2023, for a trial to determine if the amount of just compensation to be paid by Condemnor Dominion Energy South Carolina, Inc. ("DESC") is sufficient for the rights it seeks to acquire for public purposes on, over, under, and across a portion of property, more particularly rights of way and an easement for a gas pipeline or lines for the River Neck to Kingsburg project in Florence County, as more fully described in the filed Condemnation Notice and attached exhibit, which are specifically made a part hereof by reference.

At trial, appearing before the court was Jessica C. Crowson, counsel for DESC. Counsel for the Other Condemnee filed a Notice of Appearance in this matter but did not appear at trial. The Landowner did not appear at trial, nor did any other parties.

Based on the Order of Reference entered herein, this Court has jurisdiction over the parties and subject matter.

On November 4, 2022, Landowner Kathy Andrews a/k/a Gail K. Andrews ("Landowner") filed a motion to dismiss. I held a hearing on the motion November 28,

**6/1/2023 ANNOTATED: CASE 2020-CP-21-00661 HAS ENDED PURSUANT TO A FINAL ORDER APPROVING CONDEMNATION DATED 5/31/2023 TRANSFERING THE PROPERTY TO THE CONDEMNOR.**

Doris Poulos O'Hara COC

*ANNO XATED*  
2023 JUN - 1 PM 12: 08

DORIS POULOS O'HARA  
COC & CS  
FLORENCE COUNTY, SC

FILED AS:  
00372-02-RW  
800-20-21300  
102

2022 and denied the motion to dismiss by Order dated December 1, 2022. On December 12, 2022, the Landowner filed a Notice of Appeal with the South Carolina Court of Appeals. The Court of Appeals dismissed the appeal by Order dated December 20, 2022<sup>1</sup>, and issued remittitur to return jurisdiction of this matter to this Court on March 30, 2023.

DESC filed the Condemnation pleadings on May 7, 2021. The real property which is the subject of this action is located in Florence County, South Carolina having Tax Map # 00372-02-008. DESC came before me seeking:

A right of way with a width of 10' feet over a 0.15 acre portion of the property ("Permanent Easement"), which property is an approximately 91.0 acre tract of land with Tax Map Number 00372-02-008, together also with the right of ingress, egress, and access to and from the right of way across and upon the property as may be necessary or convenient for purposes connected with said right of way, and as more particularly shown on Exhibit "A" attached to the filed Condemnation Notice.

Per DESC, the property is to be acquired for: (i) access as needed for ingress and egress, (ii) underground gas pipeline or lines, and (iii) related utility purposes, including the rights to lay, construct, maintain, operate, repair, alter, add, replace and remove a pipeline or lines, together with valves, tieovers and appurtenant facilities, for the transportation of gas, oil, petroleum products, water, or any other liquid, gas or substances which can be transported through pipelines, together with the right from time to time to cut all trees, shrubs, and undergrowth and to clear other obstructions that may be located within the Permanent Easement that Condemnor determines, in its discretion, may injure, endanger, or interfere with the installation, laying, construction, maintenance, inspection, operation, repair, alteration, replacement, changing the size of, or removal of

<sup>1</sup> Based on South Carolina case law and statute, the Court of Appeals ruled that an order denying a motion to dismiss is not immediately appealable.

the equipment installed therein and/or access thereto, as set forth in the Condemnation Notice.

At trial, counsel for DESC presented an overview of the actions she undertook to fulfill DESC's statutory obligations of filing, notice, and service on all required parties, including personal service on the Landowner and service upon counsel for the Other Condemnee. Counsel for DESC represented that all documents substantiating DESC's filing, notice, and service in this matter have been filed in the court file, including mailing and service of a Notice of Trial and Second Amended Order Rescheduling Condemnation Trial, both documents listing the date, time, and location of the May 16, 2023 trial in this matter, by sending such Notice of Trial and Second Amended Order Rescheduling Condemnation Trial by (i) U.S. postal service certified mail, restricted delivery, to the Landowner's known address on April 6, 2023<sup>2</sup>; (ii) personal service upon the Landowner by process server at the Landowner's known address, which personal service was completed on April 15, 2023; and (iii) U.S. postal service mail to counsel for the Other Condemnee on April 6, 2023. After hearing from counsel for DESC and reviewing the court file, including all documents related to DESC's filing, notice, and service on the Landowner and Other Condemnee, I find the Landowner and Other Condemnee were properly served and notified of the present action and of the trial. I also therefore find DESC met all of its statutory obligations and requirements for filing, notice, and service in this matter, and that all such filing, notice, and service was proper and complete.

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<sup>2</sup> Counsel for DESC received the signed U.S. postal service green card, dated April 10, 2023, confirming delivery and receipt of the documents via certified mail. At trial, counsel for DESC pointed out to this Court that the signature on the green card appears to be a different name from the Landowner even though the documents were sent restricted delivery. I take judicial notice of this; however, due to the additional personal service upon the Landowner, I find this to have no impact upon DESC's proper notice and service of the May 16, 2023 trial.

At trial, DESC presented two (2) witnesses: Patrick Coolidge, a DESC Engineer and Manager for Large Projects, and Travis L. Avant, a Senior Appraiser with Compass South Appraisals. I heard testimony from both of these witnesses.

I heard testimony from Mr. Coolidge as to DESC's intended public purposes for the rights-of-way and the gas pipeline(s) and related utility equipment to be placed on the property, process for selecting the route, existing DESC easement on the property, and process for obtaining an appraisal.

The Condemnor offered into evidence without objection the appraisal of Travis L. Avant and offered testimony from Mr. Avant, including the methods he used in reaching his opinions. I qualified Mr. Avant as an expert in the area of appraisals, and Mr. Avant testified that as of the date of his appraisal, based on his knowledge and experience, just compensation for the rights to be acquired by DESC is \$340.00. I take judicial notice of the fact that DESC previously tendered \$340.00 to the Clerk of Court to fulfill its obligation of payment of just compensation for the rights to be acquired. No other party presented any counterevidence of the value of the taking.

After having heard from all parties present and having reviewed the Court file and all documents before me,

IT IS THEREFORE ADJUDGED AND ORDERED that:

1. The condemnation is approved, and Condemnor DESC is granted the rights it seeks to acquire on the property for public purposes, such rights as set forth in the Condemnation Notice and attached exhibit.
2. Condemnor DESC is vested with the power of eminent domain pursuant to S.C. Code Ann. §§ 58-7-10 and 28-2-60 and has complied with the procedures set

forth in the South Carolina Eminent Domain Procedure Act, S.C. Code Ann. § 28-2-10 *et seq.*

3. Just compensation in this case is **\$340.00** for the rights acquired by Condemnor DESC on the property.
4. Condemnor DESC's prior payment of **\$340.00** to the Clerk of Court is approved as full satisfaction for such just compensation.
5. In addition to the just compensation, Condemnor DESC is ordered to pay an additional statutory interest payment of **\$397.87<sup>3</sup>** to the Landowner to comply with S.C. Code §28-2-420 which requires a condemnor to pay 8% interest per year on any judgment from a court to a condemnee. I find that upon making such payment, DESC will have fully and completely complied with SC Code §28-2-420.
6. The Clerk of Court shall annotate the Notice of Condemnation in this case, thereby transferring the realty to the Condemnor.
7. The Clerk of Court shall file the Annotated Notice of Condemnation with the Register of Deeds Office of Florence County, duly indexed, as provided by law for the recording and indexing of deeds, and exempt from filing fees as provided under Code of Laws of South Carolina, §12-24-40 (1976, as amended).
8. The Clerk of Court shall provide a copy of the recorded Annotated Notice of Condemnation to Jessica C. Crowson, Esquire, Attorney for Condemnor, by electronic delivery or by mail to Rogers, Lewis, Jackson, Mann & Quinn, LLC, Post Office Box 11803, Columbia, SC 29211.

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<sup>3</sup> [(\$340.00 x 8%) ÷ 365 days] x 739 days since the date of filing.

9. The Landowner is entitled to receive the just compensation and the additional statutory interest payment set forth above.
10. The Clerk of Court shall prepare a check of the just compensation and any accrued interest, and such check shall be made out to Kathy Andrews a/k/a Gail K. Andrews in c/o Rogers, Lewis, Jackson, Mann, & Quinn, LLC. The Clerk of Court shall mail this check to counsel for DESC at 1901 Main Street, Suite 1200, Columbia, S.C. 29201.
11. After receipt of this check from the Clerk of Court, DESC is ordered to provide this check, plus a check for the additional statutory interest payment ordered herein, to Kathy Andrews a/k/a Gail K. Andrews at (i) 307 32<sup>nd</sup> Avenue South, Atlantic Beach, S.C. 29582, or (ii) 2398 Willow Grove Road, Pamplico, S.C. 29583, or (iii) such other address as the Landowner may provide.
12. After completion of the foregoing, Condemnor DESC is dismissed from this action, having satisfied and fulfilled its statutory duties and responsibilities.
13. If, after DESC has undertaken diligent attempts, in DESC's reasonable determination, to fulfill such delivery, DESC is unable obtain to deliver the above-described checks to the Landowner as ordered herein, either due to an inability to locate her or her refusal to accept them, and at least one (1) year has passed since the date of this Order, DESC shall send the checks to the Clerk of Court. The Clerk of Court shall thereafter retain these amounts in an interest-bearing account until a determination is made by this court or another court with jurisdiction over this matter as to what party(ies) are entitled to the funds, and if no such determination is made within the requisite period, the Clerk of Court shall

follow the applicable statutory process for the funds to escheat to the appropriate state entity.

14. The entry of this Order forever ends and terminates any claims, counterclaims, actions, or causes of action against Condemnor DESC arising out of or in any way related to this condemnation action; and Condemnor DESC, the Landowner, and the Other Condemnee shall be responsible for their own attorneys' fees, costs, or other litigation expenses incurred by them in this condemnation action; and
15. Thereafter, this matter shall be ended as to all parties.

AND IT IS SO ORDERED.

Florence, South Carolina  
\_\_\_\_\_, 2023

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

**FILED**  
*Annotated*  
2023 JUN -1 PM 12:08

DORIS FOULOS O'HARA  
CCCP & GS  
FLORENCE COUNTY, SC



**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

Electronically signed on 2023-05-31 15:32:28 page 8 of 8

ELECTRONICALLY FILED - 2023 May 31 4:11 PM - FLORENCE - COMMON PLEAS - CASE#2021CP2100966

ELECTRONICALLY FILED - 2023 Jun 01 3:17 PM - FLORENCE - COMMON PLEAS - CASE#2021CP2100966

FILED

*Anho tated*

2023 JUN -1 PM 12:08

STATE OF SOUTH CAROLINA  
COUNTY OF FLORENCE

) IN THE COURT OF COMMON PLEAS  
) CIVIL ACTION NO. \_\_\_\_\_  
)

Dominion Energy South Carolina, Inc.

DORIS DOUGLAS HARA  
CCCP & GS  
FLORENCE COUNTY, SC  
)

Condemnor, )

v. )

**NOTICE OF CONDEMNATION AND  
TENDER OF PAYMENT**

Kathy Andrews a/k/a Gail K. Andrews, )

Landowner, )

(non-jury trial)

and )

Tract #3

Bank of America, NA, National Banking  
Association, )

Other Condemnee. )

**TO: THE LANDOWNER AND OTHER CONDEMNEE NAMED ABOVE:**

Pursuant to the South Carolina Eminent Domain Procedure Act, S.C. Code Ann. § 28-2-10, *et seq.*,  
you are hereby notified as follows:

1. Dominion Energy South Carolina, Inc. (hereinafter "DESC") is the Condemnor herein and seeks to acquire a right of way over the property described herein for public purposes.
2. Kathy Andrews a/k/a Gail K. Andrews is named as "Landowner" in this action by virtue of her claims of title (or other interests) as shown by that certain Title to Real Estate granted by Anne C. Andrews a/k/a Anna C. Andrews on July 18, 2003, and recorded in the official records of Florence County, South Carolina in Book A-763, at Page 273 on July 25, 2003.
3. Bank of America, NA, National Banking Association is named as an "Other Condemnee" in this action by virtue of its claim of title (or other interests) as shown by that certain Mortgage dated October 24, 2007, and recorded in the official records of Florence County, South Carolina in Book B-143, at Page 390 on October 30, 2007, as modified by that

certain Modification of Security Instrument dated February 11, 2008, and recorded in the official records of Florence County, South Carolina in Book B-165, at Page 1212 on February 18, 2008.

4. The following is a description of the real property subject to this action and a description of the interests sought to be acquired in and to the property by the Condemnor:

A right of way with a width of 10' feet over a 0.15 acre portion of the property ("Permanent Easement"), which property is an approximately 91.0 acre tract of land with Tax Map Number 00372-02-008, together also with the right of ingress, egress, and access to and from the right of way across and upon the property as may be necessary or convenient for purposes connected with said right of way, and as more particularly shown on Exhibit "A" attached hereto and incorporated herein.

5. DESC is vested with the power of eminent domain pursuant to S.C. Code Ann. § 58-7-10 (Supp. 2002), and S.C. Code Ann. § 28-2-60 (1991).
6. The property sought herein is to be acquired for public purposes, more particularly rights of way and an easement to lay, construct, maintain, operate, repair, alter, add, replace and remove a pipeline or lines, together with valves, tieovers and appurtenant facilities, for the transportation of gas, oil, petroleum products, water, or any other liquid, gas or substances which can be transported through a pipeline and access thereto, as more fully shown on Exhibit A prepared by Glenn Associates Surveying, Inc. for DESC dated May 28, 2020, and together with the right from time to time to cut all trees, shrubs, and undergrowth and to clear other obstructions that may be located within the Permanent Easement that Condemnor determines, in its discretion, may injure, endanger, or interfere with the installation, laying, construction, maintenance, inspection, operation, repair, alteration, replacement, changing the size of, or removal of the equipment installed therein.

7. DESC has complied with the requirements set forth in Section S.C. Code Ann. § 28-2-70(a) (1991), by having the property appraised and making the appraisal(s) available to the Landowner and Other Condemnee where required by law and certifies to the Court that a negotiated resolution has been attempted prior to the commencement of this action.
8. Project Plans for the improvement of the subject real property may be inspected upon the filing of this matter at the Office of the Clerk of Court for Florence County. Additional Project Plans are also available for inspection and review at 1812 N Irby Street, Florence, SC 29501.
9. **THE CONDEMNOR HAS DETERMINED JUST COMPENSATION FOR THE PROPERTY AND RIGHTS TO BE ACQUIRED HEREUNDER TO BE THREE HUNDRED FORTY AND 00/100 (\$340.00) DOLLARS, AND HEREBY TENDERS PAYMENT THEREOF TO THE COURT FOR PROPER DETERMINATION OF OWNERSHIP AND DISPERSING TO THE LANDOWNER AND OTHER CONDEMNEE.**
10. Payment of this amount will be made to the Landowner and/or Other Condemnee if within thirty (30) days of service of this Condemnation Notice, the Landowner in writing requests payment, and the Landowner and Other Condemnee agree to execute any instruments necessary to convey to Condemnor the property interests and rights sought and described hereinabove. The request and agreement must be sent by first class mail, certified mail, with return receipt requested, to Jessica C. Crowson, Esquire at P.O. Box 11803, Columbia, South Carolina 29211. If no request and agreement is received by the Condemnor within the thirty (30) day period, the tender is considered rejected and the Condemnor will proceed

with filing this matter and tendering this amount to the Court for proper dispersing to the Landowner and/or Other Condemnee as the Court shall direct thereafter.

11. The Condemnor hereby gives the Landowner and Other Condemnee notice via either personal service or publication that the Condemnation Notice is being filed or will be filed with the Clerk of Court and the Condemnor will proceed with taking possession of the property interests and exercise the rights described in this Condemnation Notice on a date that is thirty (30) days after service of the filed Condemnation Notice upon the Landowner.
12. **AN ACTION CHALLENGING THE CONDEMNOR'S RIGHT TO ACQUIRE THE PROPERTY AND RIGHTS DESCRIBED HEREIN MUST BE COMMENCED IN A SEPARATE PROCEEDING IN THE COURT OF COMMON PLEAS WITHIN THIRTY DAYS OF THE SERVICE OF THIS CONDEMNATION NOTICE, OR THE LANDOWNER AND OTHER CONDEMNEE WILL BE CONSIDERED TO HAVE WAIVED THE CHALLENGE.**
13. **THE CONDEMNOR HAS ELECTED NOT TO UTILIZE THE APPRAISAL PANEL PROCEDURE.** Therefore, if the tender herein is rejected, the Condemnor shall notify the Clerk of Court and shall demand a trial to determine the amount of just compensation to be paid. A copy of that notice must be served on the Landowner and Other Condemnee. That notice shall state whether the Condemnor demands a trial by jury or by the Court without a jury. The Landowner and Other Condemnee have a right to demand a trial by jury. The case may not be called for trial before sixty (60) days after the service of that notice, but it may thereafter be given priority for trial over other civil cases. The Clerk of Court shall give the Landowner written notice by mail of the call of the case for trial.

14. **THEREFORE, IF THE TENDER HEREIN IS REJECTED, THE LANDOWNER AND OTHER CONDEMNEE IS ADVISED TO OBTAIN LEGAL COUNSEL AT ONCE, IF NOT ALREADY OBTAINED.**

**ROGERS, LEWIS, JACKSON, MANN & QUINN, LLC**

By: s/Jessica Clancy Crowson  
Jessica Clancy Crowson, Esquire  
1901 Main Street, Suite 1200  
Columbia, South Carolina 29201  
(P.O. Box 11803, Columbia, SC 29211)  
803-256-1268 Phone  
803-252-3653 Fax

Jay E. Bressler, Esquire  
Assistant General Counsel  
Dominion Energy South Carolina, Inc.  
220 Operation Way, MC C222  
Cayce, SC 29033

**ATTORNEYS FOR CONDEMNOR,  
DOMINION ENERGY SOUTH CAROLINA, INC.**

Columbia, South Carolina  
May 7, 2021

ELECTRONICALLY FILED - 2021 May 07 11:43 AM - FLORENCE - COMMON PLEAS - CASE#2021CP2100966

ELECTRONICALLY FILED - 2023 Jun 01 3:17 PM - FLORENCE - COMMON PLEAS - CASE#2021CP2100966

**EXHIBIT A**

TMS #: 00372-02-008

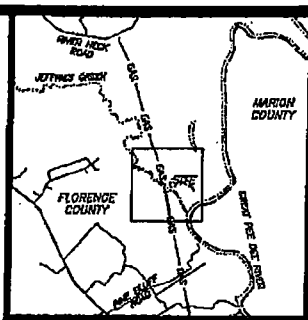
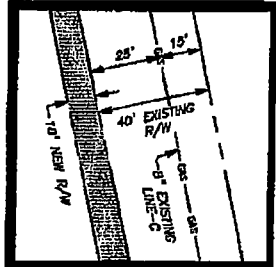
The subject property is an unimproved 91.0-acre parcel located on Willow Grove Road, Pamplico, South Carolina.

This being a portion of that same piece of property as described in that certain Title to Real Estate granted by Anne C. Andrews a/k/a Anna C. Andrews on July 18, 2003, and recorded in the official records of Florence County, South Carolina in Book A-763, at Page 273 on July 25, 2003:

**All of that certain tract of land situate in the County of Florence, State of South Carolina, containing 91 acres, more or less, and bounded as follows: Northwest now or formerly by Flowers and Williams heirs; Southeast now or formerly by Andrew Hyman heirs, Southwest now or formerly by Boney Hyman; and Northeast now or formerly by Kelley.**

*(See attached 1 page)*

ELECTRONICALLY FILED - 2021 May 07 11:43 AM - FLORENCE - COMMON PLEAS - CASE#2021CP2100966



R/W DETAIL - TYPICAL NOT TO SCALE

LOCATION SKETCH SCALE: 1 INCH = 1 MILE

②  
**HEIRS OF EMMA WILLIAMS**  
TMS# 00372-02-081

①  
**G & H FARMS, LLC**  
TMS# 00370-01-011

③  
**KATHY ANDREWS**  
**a/k/a GAIL K. ANDREWS**  
TMS# 00372-02-008  
DEED: BOOK A-783 PAGE 273

④  
**ESTATE OF ANDREW LYMAN**  
TMS# 00372-02-040

**NEW DESC R/W AREA**  
0.15 ACRE

PT-PT	BEARING	DISTANCE
J0594-J0593	N 41°28'00" E	12.80'
J0593-J0595	S 11°04'53" E	86.71'
J0595-J0596	S 08°09'34" E	142.18'
J0596-J0597	S 12°20'42" E	421.20'
J0597-J0598	S 34°10'06" W	13.78'
J0598-J0599	N 12°20'42" W	430.98'
J0599-J0600	N 09°09'34" W	142.27'
J0600-J0584	N 11°04'53" W	78.89'

NOTE: PROPERTY LINES DEPICTED ON THIS EXHIBIT DERIVED FROM DEEDS AND PLATS OF RECORD WITH TIES TO AVAILABLE PROPERTY CORNERS AND OTHER EVIDENCE OF POSSESSION BY FIELD SURVEY. THIS EXHIBIT IS NOT A PROPERTY BOUNDARY SURVEY. ALL PROPERTY LINE LOCATIONS SUBJECT TO FULL BOUNDARY SURVEY OF THE DEPICTED PARCEL. ALL DISTANCES SHOWN ARE S.C. STATE GRID SCALE.



DRAWING BY ADAM JANOWICZ

**LEGEND**

— PL —	PROPERTY LINE
— R/W —	RIGHT-OF-WAY
— GAS —	EXISTING GAS LINE
— DR —	DIRT ROAD
ATWS	ADDITIONAL TEMPORARY WORKSPACE
TWS	TEMPORARY WORKSPACE
POB	POINT OF BEGINNING
EE	EXISTING EASEMENT

**GEODETTIC AND SC STATE GRID POINT DATA**

HORIZONTAL DATUM:	NAD83 (2011)
POINT NUMBER:	30394
SC GRID COORDINATES	
NORTH:	820,349.77'
EAST:	2,441,857.15'
GEODETTIC COORDINATES:	
LATITUDE:	34.078498709
LONGITUDE:	79.540532117

**EASEMENT EXHIBIT FOR**  
**DOMINION ENERGY SOUTH CAROLINA, INC.**

PROJECT  
**"RIVER NECK TO KINGSBURG PIPELINE"**  
**"TRACT 03"**

CROSSING PROPERTY OF  
**KATHY ANDREWS - a/k/a GAIL K. ANDREWS**  
FLORENCE COUNTY, SOUTH CAROLINA  
MAY 28, 2020

SCALE: 1 INCH = 100 FEET  
100' 200' 300'

PREPARED BY GLENN ASSOCIATES SURVEYING, INC.  
P.O. BOX 12 JENKINSVILLE, S.C. 29065 telephone (803) 345-8297

**EXHIBIT B**

Copy of Notice of Appeal (downloaded from Court of Appeals website), with purported proof of service and copy of envelope addressed to the Court of Appeals

RECEIVED

JUN 20 2023

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 from the orders of W. Haigh Porter dated December 1, 2022 and May 31, 2023.

Dated: 2023

s/ Gail Kathy Andrews

307 32<sup>nd</sup> Avenue South  
Atlantic Beach, SC 29582

*Gail Kathy Andrews* June 15, 2023

RECEIVED

JUN 20 2023

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-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 Brief of Appellant Pro Se on Dominion Energy by depositing a certified copy of it in the United States Mail, postage prepaid, on June 15, 2023, addressed to Dominion's attorney of record, Jessica Clancy Crowson, 1901 Main Street, Suite 1200, Columbia, SC 29211, Attorney for Dominion Energy- Condemnor.

s/ \_\_\_\_\_  
Gail Kathy Andrews  
Appellant Pro Se  
307 32<sup>nd</sup> Avenue South  
Atlantic Beach, SC 29582  
North Myrtle Beach SC 29582

*Gail Kathy Andrews*  
June 15, 2023

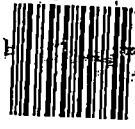
Carl Kathy Andrew  
307 32nd Ave. South  
Atlantic Beach, SC 29582



15 JUN 2023



RBC 95



29211

U.S. POSTAGE PAID  
FCM LETTER  
NORTH MYSTLE BEACH, S  
29582  
JUN 15 23  
AMOUNT

\$8.13

R2305K138801-20

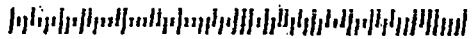
RECEIVED

JUN 20 2023

SC Court of Appeals  
RETURN RECEIPT  
REQUESTED

South Carolina Court of Appeals  
PO Box 11629  
1200 Senate Street  
Columbia, SC 29211

29201-376999



**EXHIBIT C**

Letters from the Court of Appeals to Appellant dated June 23, 2023 and July 7, 2023, regarding deficiencies and requests for proof of service



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

June 23, 2023

Gail Kathy Andrews  
307 32nd Avenue South  
Atlantic Beach SC 29582

Re: Dominion Energy v. Kathy Andrews (2)  
Appellate Case No. 2023-001004

Dear Ms. Andrews:

Upon reviewing your notice of appeal, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or this matter will be dismissed:

- The accompanying proof of service is not in compliance with the SCACR. Your proof of service should be substantially in the format shown by Form 7 in Appendix C to part II of the SCACR. Specifically, your proof of service states you served the “brief of appellant pro se” and not the notice of appeal.
- Proof of filing upon the clerk of the lower court has not been provided pursuant to Rule 203(d), SCACR.
- The notice of appeal is not accompanied by the order(s) and/or judgment(s) challenged on appeal.
- The required filing fee has not been submitted. The correct filing fee is \$250.00.

Very truly yours,

*Catherine Hannibal, deputy*  
CLERK

cc: Jessica Clancy Crowson, Esquire



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

July 07, 2023

Gail Kathy Andrews  
307 32nd Avenue South  
Atlantic Beach SC 29582

Re: Dominion Energy v. Kathy Andrews (2)  
Appellate Case No. 2023-001004

Dear Ms. Andrews:

We are in receipt of the proof of service for your notice of appeal as requested in this Court's letter dated June 23, 2023. The proof of service does not provide the date that you served a copy of your notice of appeal on the respondent's counsel. This correction must be provided within ten (10) days of the date of this letter or this appeal will be dismissed.

Very truly yours,

  
CLERK

cc: Jessica Clancy Crowson, Esquire

**EXHIBIT D**

Letter from Appellant to Court of Appeals, filed July 17<sup>th</sup>, 2023, with purported proof of service and copy of envelope addressed to the Court of Appeals

July 13, 2023

Office of the Clerk  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201  
Re: Case No. 2021-CP-210-00966

RECEIVED  
JUL 17 2023  
SC Court of Appeals

Dear Office of the Clerk,

I do not intend to re-date the original Notice of Appeal or Proof of Service, since these documents were timely dated and mailed to your offices. The original proof of service to Jessica Crowson had a typo on it saying the appellate brief was being sent to her. This was corrected, and a corrected copy has been sent to you (along with the judge's orders and \$250.00) but the date when it was originally mailed to her has not changed. Please inform me if you need any further information.

Sincerely,  
*Kathy A. du*  
Appellant Pro Se

Please see enclosed. It  
was dated June 15, 2023 DKA

RECEIVED

JUL 17 2023

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-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 Brief of Appellant Pro Se on Dominion Energy by depositing a certified copy of it in the United States Mail, postage prepaid, on June 15, 2023, addressed to Dominion's attorney of record, Jessica Clancy Crowson, 1901 Main Street, Suite 1200, Columbia, SC 29211, Attorney for Dominion Energy-Condennor.

s/ \_\_\_\_\_  
Gail Kathy Andrews  
Appellant Pro Se  
307 32<sup>nd</sup> Avenue South  
Atlantic Beach, SC 29582

*Gail Kathy Andrews June 15 2023*

Gail Kathy Andrews  
307 3rd Ave. South  
Atlantic Beach, SC 299



RBC 99



Retail



29201

RECEIVED

JUL 17 2023  
SC Court of Appeals

Office of the Clerk  
SC Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

R2305K138801-88

\$5.01

U.S. POSTAGE PAID  
FCM LETTER  
NORTH MYRTLE BEACH  
SC 29582  
JUL 13, 2023

29201-37E999



**EXHIBIT E**

Copy of Appellant's Motion

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  
Appellate Case No. 2023-001004

Gail Kathy Andrews

Appellant Pro Se

v.

Dominion Energy

Respondent

MOTION FOR FULL HEARING OF LANDOWNER PRO SE APPEALS OF  
RIGHT

Gail Kathy Andrews appeals from the orders of W. Haigh Porter dated December 1, 2022 and May 31, 2023, to the Court of Appeals at Case No. 2023-001004

Dated: August 15 2023

s/ Gail Kathy  
Andrews

307 32<sup>nd</sup> Avenue South  
North Myrtle Beach, SC 29582

  
8/15/23

Motion For South Carolina Court of Appeals' Full Hearing Of Landowner Pro Se Appeal As Of Right From  
Final Orders of December 1, 2022, and May 31, 2023

Landowner Pro Se, Gail Kathy Andrews, motions for the hearing of Landowner's appeal as of right from the orders of December 1, 2022 and May 31, 2023. On or about July 14, 2023, Landowner served by certified mail the original Notice of Appeal on the Court of Appeals and on Dominion's attorney, Jessica Crowson. Various extremely minor additions and corrections were requested by the Court. Landowner made the corrections and supplied the appropriate fee to the Court. Landowner is now entitled to notice as to the timely filing of her appeal as of right, and a briefing schedule for arguments on the merits. The state appellate court's failure to file landowner's appeal as of right and move forward with a briefing schedule is a *de facto* dismissal of landowners appeal and it violates the Due Process Clause. Procedures used in deciding appeals must comport with the demands of the Due Process and Equal Protection Clauses of the Constitution.

The right of appeal arises from and is controlled by statutory law. The jurisdiction of appellate courts is prescribed by S.C. Code Ann. § 14-3-330 (1976) and is defined in numerous decisions of this Court and the Court of Appeals. **NC FED. S. & L. ASSOC. v. Twin States Dev. Corp., 347 SE 2d 97 - SC: Supreme Court 1986**

The appealability statute § 14-3-330 states:

[t]he Supreme Court shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal:

(1) Any intermediate judgment, order or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, ... and final judgments from such actions; provided, that if no appeal be taken until final judgment is entered the

court may upon appeal from such final judgment review any intermediate order or decree necessarily affecting the judgment not before appealed from....

**Mid-State Distributors, Inc. v. Century Importers, Inc., 426 SE 2d 777, 780-81, SC: Supreme Court 1993**

See **DECLARATION OF RIGHTS, CONSTITUTION OF SOUTH CAROLINA:** Article 1, SECTION 9: Courts; speedy remedy. All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained. (1970 (56) 2684; 1971 (57) 315.) Editor's Note The present provisions of this section are identical to former Section 15 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section 15.

And see: **Rule 201. Right to Appeal: (a) Judgments, Orders and Decisions Subject to Appeal.** Appeal may be taken, as provided by law, from any final judgment, appealable order or decision.

The Court must abide by the dictates of the Constitution of South Carolina. See Declaration of Rights: Article 1, Section 2: Religious freedom; freedom of speech; right of assembly and petition. The General Assembly shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; OR THE RIGHT OF THE PEOPLE PEACEABLY TO ASSEMBLE AND TO PETITION THE GOVERNMENT OR ANY DEPARTMENT THEREOF FOR A REDRESS OF GRIEVANCES. (1970 (56) 2684; 1971 (57) 315.) (Emphasis supplied).

"The right to appeal would be unique among state actions if it could be withdrawn without consideration of applicable due 401\*401 process norms. For instance, although a State may choose whether it will institute any given welfare program, it must operate whatever programs it does establish subject to the protections of the Due Process Clause. See Goldberg v. Kelly, 397 U. S. 254, 262 (1970). Similarly, a State has great discretion in setting policies governing parole decisions, but it must nonetheless make those decisions in accord with the Due Process Clause. See Morrissey v. Brewer, 408 U. S. 471, 481-484

(1972). See also Graham v. Richardson, 403 U. S. 365, 374 (1971); Bell v. Burson, 402 U. S. 535, 539 (1971); Sherbert v. Verner, 374 U. S. 398, 404 (1963); Joint Anti-Fascist Refugee Committee v. McGrath, 341 U. S. 123, 165-166 (1951) (Frankfurter, J., concurring). In short, when a State opts to act in a field where its action has significant discretionary elements, it must nonetheless act in accord with the dictates of the Constitution — and, in particular, in accord with the Due Process Clause.” Evitts v. Lucey, 469 US 387 - Supreme Court (1985) (Emphasis supplied).

Due process concerns are involved because the State of South Carolina has set up a system of appeals as of right but refused to offer each appellate plaintiff a fair opportunity to obtain an adjudication on the merits of an appeal. See *Evitts*.

An order which involves the merits is one that "must finally determine some substantial matter forming the whole or a part of some cause of action or defense." Mid-State Distribs. v. Century Importers, Inc., 310 S.C. 330, 334, 426 S.E.2d 777, 780 (1993). Interlocutory orders affecting a substantial right may be immediately appealed pursuant to § 14-3-330(2). Orders affecting a substantial right "discontinue an action, prevent an appeal, grant or refuse a new trial, or strike out an action or defense." *Id.* at 335 n. 4, 426 S.E.2d at 780 n. 4." **Edwards v. SunCOM, SC: Supreme Court 2006**

“Judicial proceedings and court records are presumptively open to the public under the common law, the First Amendment of the federal constitution, and the state constitution. S.C. Const. art. I § 9 (“[a]ll courts shall be public”); Davis, 304 S.C. at 505, 405 S.E.2d at 603; Nixon, 435 U.S. at 597-98, 98 S.Ct. at 1312, 55 L.Ed.2d at 579-80; Virginia Dept. of State Police v. Washington Post, 386 F.3d 567, 575 (4th Cir.2004); Anderson v. Cryovac, Inc., 805 F.2d 1, 13 (1st Cir.1986).” **Ex parte Capital U-Drive-It, Inc., 630 SE 2d 464 - SC: Supreme Court 2006** Landowner has been denied access to the docket by the Court of Appeals.

“ Public access to courts and their records serves several fundamental interests which are crucial to the proper functioning 11\*11 of judicial and government systems. Public access discourages perjury and encourages bringing the truth to light because participants are less likely to testify falsely in a sunlit courtroom before their neighbors than in a private room before court officials. Public access promotes free discussion of governmental affairs by imparting a more complete understanding to the public of the judicial system and issues resolved by that system. Public access serves as a check on inappropriate or corrupt practices by exposing the judicial process to public scrutiny. Lawyers, witnesses, and judges may perform their duties in a more conscientious manner, knowing their conduct will be subject to public scrutiny either at the time of the proceeding or later through disclosure of court records. See e.g. Press-Enterprise Co. v. Superior Court, 464 U.S. 501, 505-10, 104 S.Ct. 819, 821-24, 78 L.Ed.2d 629, 635-38 (1984); Richmond, 448 U.S. at 564-80, 100 S.Ct. at 2821-29, 65 L.Ed.2d at 981-92; Jessup, 277 F.3d at 927-28; Columbus-America Discovery Group v. Atlantic Mut. Ins. Co., 203 F.3d 291, 303 (4th Cir.2000).” Capital-U-Drive-It.

The U.S. Supreme Court consistently has held that some form of hearing is required before an individual is finally deprived of a property interest. Wolff v. McDonnell, 418 U. S. 539, 557-558 (1974). See, e. g., Phillips v. Commissioner, 283 U. S. 589, 596-597 (1931). See also Dent v. West Virginia, 129 U. S. 114, 124-125 (1889). The "right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society." Joint Anti-Fascist Comm. v. McGrath, 341 U. S. 123, 168 (1951) (Frankfurter, J., concurring). The fundamental requirement of due process is the opportunity to be heard "at a meaningful

time and in a meaningful manner." Armstrong v. Manzo, 380 U. S. 545, 552 (1965).

See Grannis v. Ordean, 234 U. S. 385, 394 (1914).

Due process under the South Carolina and United States Constitutions demands that the right to notice and an opportunity to be heard must be granted at a meaningful time and in a meaningful manner where the state seeks to infringe a protected liberty or property interest. Greene v. Lindsey (1982), 456 U.S. 444, 102 S.Ct. 1874, 72 L.Ed.2d 249; Boddie v. Connecticut (1971), 401 U.S. 371, 378, 91 S.Ct. 780, 786, 28 L.Ed.2d 113

"[D]ue process requires, at a minimum, that absent a countervailing state interest of overriding significance, persons forced to settle their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard." (Boddie v. Connecticut (1971) 401 U.S. 371, 377.) In Mullane v. Central Hanover Trust Co., 339 U. S. 306 (1950), it was said that "[M]any controversies have raged about the cryptic and abstract words of the Due Process Clause but there can be no doubt that at a minimum they require that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case." *Id.*, at 313. "The fundamental requisite of due process of law is the opportunity to be heard," Grannis v. Ordean, 234 U. S. 385, 394 (1914), a right that "has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to . . . contest." Mullane v. Central Hanover Trust Co., *supra*, at 314. See also Armstrong v. Manzo, 380 U. S. 545, 550 (1965); Anti-Fascist Committee v. McGrath, 341 U. S. 123, 168-169 (1951) (Frankfurter, J., concurring). . . . "Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified." Baldwin v. Hale, 1 Wall. 223, 233 (1864). Goss v. Lopez, 495 U.S. 565,----- (1975).

In *Dogwood Dev. & Mgmt. v. White Oak Transport*, 657 SE 2d 361 - NC: Supreme Court 2008, the appellate court held the following:

We stress that a party's failure to comply with nonjurisdictional rule requirements normally should not lead to dismissal of the appeal. *See, e.g., Hicks v. Kenan*, 139 N.C. 337, 338, 51 S.E. 941, 941 (1905) (per curiam) 366\*366 (observing this Court's preference to hear merits of the appeal rather than dismiss for noncompliance with the rules); 5 Am.Jur.2d *Appellate Review* § 804, at 540 (2007) ("[I]t is preferred that an appellate court address the merits of an appeal whenever possible.... [A]n appellate court has a strong preference for deciding cases on their merits; and it is the task of an appellate court to resolve appeals on the merits if at all possible." (footnotes omitted)); Paul D. Carrington, Daniel J. Meador & Maurice Rosenberg, *Justice on Appeal 2* (1976) ("[A]ppellate courts serve as the instrument of accountability for those who make the basic decisions in trial courts and administrative agencies.").

Landowner does not concede that any substantial noncompliance with rules of appellate procedure ever took place. . . . [T]he appellate court may not consider sanctions of any sort when a party's noncompliance with nonjurisdictional requirements of the rules does not rise to the level of a "substantial failure" or "gross violation." In such instances, the appellate court should simply perform its core function of reviewing the merits of the appeal to the extent possible. . . . We clarify, however, that only in the most egregious instances of nonjurisdictional default will dismissal of the appeal be appropriate. *See Hart*, 361 N.C. at 311, 644 S.E.2d at 202 ("[E]very violation of the rules does not require dismissal of the appeal or the issue, although some other sanction may be appropriate, pursuant to Rule 25(b) or Rule 34...."). *Cf. Harris v. Maready*, 311 N.C. 536, 551, 319 S.E.2d 912, 922 (1984) (observing that dismissal for failure to comply with procedural rules is an "extreme sanction ... to be applied only when ... less drastic sanctions will not suffice"). In most situations when a party substantially or grossly violates nonjurisdictional requirements of the rules, the appellate court should impose a sanction other than dismissal and review the merits of the appeal. This systemic preference not only accords fundamental fairness to

litigants but also serves to promote public confidence in the administration of justice in our appellate courts." *Dogwood*. (Emphasis supplied).

A judge cannot determine unilaterally and without process that a landowner cannot exercise the privilege of taking an appeal as of right from a final order. This of course offends against due process and separation-of-powers constitutional authority. "Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified. Common justice requires that no man shall be condemned in his person or property without notice and an opportunity to make his defence. Nations et al. v. Johnson et al., 24 How., 203; Boswell's Lessee v. Otis et al., 9 How., 350; Oakley v. Aspinwall, 4 Comst., 514". *Baldwin v. Hale*, 68 US 223, ---- - Supreme Court (1864). The right to make a defense includes the right to view a docket, notice from the court of an appealable event, issuance of a briefing schedule and the guarantee of being able to file without judicial interference an appeal as of right from a lower court's final orders.

Respectfully Submitted,

*Paul Kathy Adm*

8/15/23

KATHY Andrews  
7300 Ave. South  
Myrtle Beach, SC



Jessica Crossan/Attorney  
1901 Main Street Suite 200  
Columbia, SC 29201-2436

**EXHIBIT F**

Letter from Respondent's Counsel to Clerk of Court, dated August 21, 2023, regarding lack of service of notice of appeal

# ROGERS LEWIS

ATTORNEYS AT LAW

Jessica Clancy Crowson, Esquire\*

[Jcrowson@RogersLewis.Com](mailto:Jcrowson@RogersLewis.Com)

\*Licensed In South Carolina and Florida

Direct Dial: 803-978-2837

August 21, 2023

**Via US Mail**

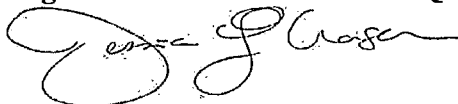
The Honorable Jenny A. Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

**RE: Dominion Energy South Carolina, Inc. v. Kathy Andrews (2)  
Appellate Case No. 2023-001004**

Dear Ms. Kitchings:

Please allow this correspondence to serve as my confirmation that as of today's date, I have not yet been served with the Appellant's Notice of Appeal in the above referenced action. Thank you.

**Rogers Lewis Jackson Mann & Quinn, LLC**



Jessica Clancy Crowson

cc:

Kathy Andrews  
2398 Willow Grove Road  
Pamplico, South Carolina 29583  
*Pro Se Appellant*

Kathy Andrews  
307 32nd Avenue South  
Atlantic Beach, SC 29582  
*Pro Se Appellant*

PO Box 11803 (29211)  
1901 Main Street, Suite 1200  
Columbia, SC 29201  
[jcrowson@rogerslewis.com](mailto:jcrowson@rogerslewis.com)  
[www.rogerslewis.com](http://www.rogerslewis.com)

Main Office Dial: 803-256-1268  
Direct Dial: 803-978-2837  
Fax: 803-252-3653

**EXHIBIT G**

Letter from Court of Appeals dated September 6, 2023, regarding deficiencies and request for proof of service



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

September 06, 2023

Gail Kathy Andrews  
307 32nd Avenue South  
Atlantic Beach SC 29582

Re: Dominion Energy v. Kathy Andrews (2)  
Appellate Case No. 2023-001004

Dear Ms. Andrews:

Upon reviewing your motion for full hearing, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or your filing will not be considered:

- The required filing fee has not been submitted. The correct filing fee is \$50.00.
- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.

Very truly yours,

  
CLERK

cc: Jessica Clancy Crowson, Esquire

**EXHIBIT H**

Filing from Appellant filed September 18, 2023, with purported proof of service and copy of envelope addressed to the Court of Appeals

99.844

THE STATE OF SOUTH CAROLINA  
In The Court of  
Appeals

RECEIVED

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

SEP 18 2023

SC Court of Appeals

W. Haigh Porter, Master in Equity

Case No. 2021-CP-21-00966

Appellate Case No. 2023-001004


Dominion Energy South Carolina, Inc                      Respondent,

v.

Gail Kathy Andrews    Appellant. Pro Se

PROOF OF SERVICE

I certify that I have served the Motion of Appellant Pro Se on Dominion Energy by depositing a certified copy of it in the United States Mail, postage prepaid, on 9/14, 2023, addressed to Dominion's attorney of record, Jessica Clancy Crowson, 1901 Main Street, Suite 1200, Columbia, SC 29211, Attorney for Condemnor.



Gail Kathy Andrews  
Appellant Pro Se

307 32nd Avenue South Unit  
Atlantic Beach, SC 29582

*You are already in possession of the proof of service, but here it is again.*

G. K. Andrews  
307 Canal Ave. S.  
Atlantic Beach

**REGISTERED MAIL**

**Retail**



29211

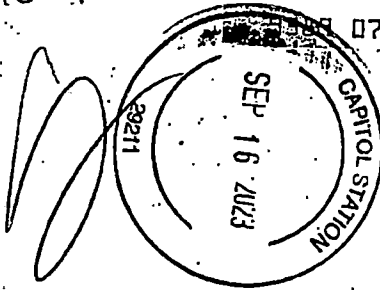
0710 5270 0715 9617 23

RDC 99

U.S. POSTAGE PAID  
FCM LETTER  
NORTH MYRTLE BEAC  
SC 29582  
SEP 14, 2023

**\$8.56**

R2304M111588-02



SC Court of Appeals  
PO Box 1162  
Columbia, SC

**RECEIVED**

SEP 18 2023  
SC Court of Appeals

29211-162929



**RECEIVED**

FEB 27 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

\_\_\_\_\_  
Dominion Energy South Carolina, Inc., Respondent,

v.

Kathy Andrews a/k/a Gail K. Andrews, Appellant,

and

Bank of America, NA, National Banking Association, Defendant.

Appellate Case No. 2023-001004  
\_\_\_\_\_

\_\_\_\_\_  
**CERTIFICATE OF SERVICE**  
\_\_\_\_\_

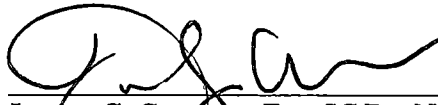
I certify that I have served the *RESPONDENT'S MOTION FOR DISMISSAL* by depositing a copy of the same in United States Mail, postage prepaid, on February 27, 2024, to the Appellant and other parties, listed herein:

Kathy Andrews  
2398 Willow Grove Road  
Pamplico, South Carolina 29583  
*Pro Se Appellant*

Kathy Andrews  
307 32nd Avenue South  
Atlantic Beach, SC 29582  
*Pro Se Appellant*

Peter M. Balthazor, Esq.  
Riley Pope & Laney, LLC  
2838 Devine Street (29205-2508)  
Post Office Box 11412  
Columbia, SC 29211-1412  
*Attorney for Defendant, Bank of America,  
NA, National Banking Association*

*(signature page to follow)*



Jessica C. Crowson, Esq. SC Bar No.: 68626

Rogers Lewis Jackson Mann & Quinn, LLC

1901 Main Street Suite 1200

Columbia, SC 29201

(803) 978-2837

*Attorney for Respondent, Dominion Energy South  
Carolina, Inc.*

# ROGERS LEWIS

ATTORNEYS AT LAW

Jessica C. Crowson  
Direct: (803) 978-2837  
JCrowson@rogerslewis.com

February 27, 2024

Via Hand Delivery

The Honorable Jenny Abbott Kitchings  
The South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

**RECEIVED**

FEB 27 2024  
SC Court of Appeals

RE: *Dominion Energy South Carolina, Inc. v. Kathy Andrews, et al.*  
Appellate Case No. 2023-001004

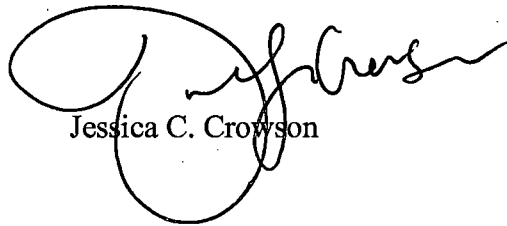
Dear Ms. Kitchings:

I have enclosed one original and six (6) copies of the Respondent Dominion Energy South Carolina Inc.'s Motion for Dismissal, a check in the amount of \$50.00, and proof of service showing that the Motion has been served.

Thank you for your assistance. If you have any questions, please do not hesitate to contact me.

Sincerely,

**ROGERS LEWIS JACKSON MANN & QUINN, LLC**



Jessica C. Crowson

Enclosures

cc:  
Kathy Andrews  
2398 Willow Grove Road  
Pamplico, South Carolina 29583  
*Pro Se Appellant*

Kathy Andrews  
307 32nd Avenue South  
Atlantic Beach, SC 29582  
*Pro Se Appellant*

Peter M. Balthazor, Esq.  
Riley Pope & Laney, LLC  
2838 Devine Street (29205-2508)  
Post Office Box 11412  
Columbia, SC 29211-1412  
*Attorney for Defendant, Bank of America,  
NA, National Banking Association*