

THE STATE OF SOUTH CAROLINA
In The Supreme Court
In the Court of Appeals

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Sep 15 2025

S.C. SUPREME COURT

APPEAL FROM THE PUBLIC SERVICE
COMMISSION OF SOUTH CAROLINA

Appellate Case No.
2025-000933

Application of Kingtree East 230 LLC for a Certificate of Environmental Compatibility and Public Convenience and Necessity for the Construction and Operation of a 249 MWac Solar Facility in Williamsburg County, South Carolina Pursuant to S.C. Code Ann. § 58-33-10 *et. seq.*, and Request to Proceed with Initial Construction Work, S.C. Code Ann. § 58-33-110(7)

Dr. Cheryl O. Lane, Appellant,

v.

Kingtree East 230 LLC, Respondent.

MOTION FOR RECONSIDERATION OR
IN THE ALTERNATIVE, MOTION TO
TRANSFER PURSUANT TO RULE
204(A), SCACR

Respondent Kingtree East 230 LLC, by and through its undersigned counsel, requests that the Supreme Court reconsider its transfer order dated September 15, 2025, or that in the alternative that the Court of Appeals transfer the case back to the Supreme Court.

On May 15, 2025, Petitioner Lane filed the instant appeal from the final decision of the Public Service Commission in the Court of Appeals. However, a few days earlier, on May 12, 2025, the Governor signed the South Carolina Energy Security Act, H 3309, Act 41 (hereinafter, “The Act”). By its own terms, the Act had immediate effect. *See* Act 41. The Act defines an

“Energy infrastructure project” as:

...the construction, placement, authorization, or removal of energy infrastructure including, but not limited to, electric transmission and generation assets, natural gas transmission assets, and all associated or appurtenant infrastructure and activities, including communications and distribution infrastructure.”

S.C. Code Ann. § 58-37-100(6). The case before the Court involves an “Energy infrastructure project” as it involves the construction of electric generation assets. The Act amended S.C. Code Ann. § 58-33-310 (C) to provide that an appeal from a final order of the Public Service Commission relating to an “Energy infrastructure project” goes straight to the Supreme Court, not to the Court of Appeals. The Act added S.C. Code Ann. § 58-37-135 which states,

Any appeal of an order concerning a permit for an energy infrastructure project which appeal is not finally resolved on the effective date of this statute shall be immediately transferred to the South Carolina Supreme Court which shall have the exclusive jurisdiction of all proceedings related to that appeal.

The Court of Appeals recognized that the appeal had been filed in the incorrect appellate court, and on May 15, 2025, the same day the appeal was filed, it transferred the case to the Supreme Court pursuant to Rule 204(a), SCACR. Since then, the case has properly been before the Supreme Court. On September 15, 2025, the Supreme Court issued a transfer order sending the case back to the Court of Appeals, again citing Rule 204(a), SCACR. Respondent submits that this case is properly before the Supreme Court and not the Court of Appeals.

Based on this, Respondent hereby request that either a) the Supreme Court review this matter, and determine whether its September 15, 2025, transfer order is proper, or b) that the Court of Appeals issue another transfer order sending the case back to the Supreme Court¹ with

¹ Because of the nature of this motion, and the fact that Respondent is requesting relief from either the Supreme Court or the Court of Appeals (but not both) Respondent is uncertain

current deadlines remaining in place².

Respectfully Submitted,

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whether it should file its \$50.00 filing fee with the Supreme Court or the Court of Appeals. When the appropriate Court notifies it, it will immediately remit the filing fee to the appropriate Court.

² On August 13, 2025, Appellant requested a 30 day extension of her deadline to file her initial brief and designation of matter. On August 19, 2025, the Supreme Court granted the extension, making Appellant's initial brief and designation due on September 12, 2025. On September 8, 2025, Appellant requested a second 30 day extension. Respondent requests that if this case remains with the Supreme Court, all pending deadlines remain unchanged, subject to any further extension the Supreme Court may issue.