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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM THE PUBLIC SERVICE
COMMISSION OF SOUTH CAROLINA

APPELLATE CASE NO. 2025-000933
PSC DOCKET NO. 2024 203 E

Application of Kingstree 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)

Of which,

Dr. Cheryl O. Lane, ……. Appellant,

v.

Kingstree East 230 LLC, ……. Respondent.

APPELLANT'S AMENDED INITIAL BRIEF

Cheryl O. Lane, Ph.D.
76 Mount Vernon Road
Greeleyville, S.C. 29056
(843) 372-5769

Appellant

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TABLE OF AUTHORITIES

Cases

Statutes

In South Carolina, the siting of a utility facility is governed by the *South Carolina Utility Facility Siting and Environmental Protection Act* ("Act"), codified at S.C. Code § 58-33-10 *et seq*.

A. CLEAR INTERRELATIONSHIP BETWEEN (1)INGKA FOREST INVESTMENTS, LLC, (2) "KINGSTREE *EAST* 230, LLC" AND (3) "KINGSTREE *WEST* 115, LLC."

In 2019, Ingka Forest Investments, LLC (f/k/a IRI Forest Assets, LLC)["Ingka"] purchased around 12,000-13,000 acres in Williamsburg Co., divided into a multitude of different Tax Map Numbers.

"Ingka" is somehow connected with the parent firm of IKEA Home Furnishings, according to newspaper reports. The Williamsburg County land was part of a $58m land purchase of land by Ingka in three (3) South Carolina counties – Georgetown, Clarendon and Williamsburg Counties.

Prior to 2023, various forestry management teams managed the 12,000-13,000 acres in Williamsburg County. In November of 2023, the longstanding hunting leases that had been in place for at least 45 years by written agreement were terminated and Ingka began clearcutting, grubbing, and land preparation for solar projects on certain tracts.

In the Docket, Kristen Resar said that Ingka Investments BV owns 100% of the shares of Ingka Investment US, Inc., which is the sole owner of the Applicant Kingstree East 230, LLC ("Kingstree East"). [Tr. 23.2: 5,6].

Now, Kingstree East is a **separate, distinct company** from Kingstree West 115,

LLC ("Kingstree West"). Kingstree West 115 was incorporated first; then Kingstree East 230 was later incorporated. Another limited liability company called Kingstree West 69, LLC was also incorporated.

But while they are denominated as separate companies, it appears that Kingstree East and West are really alter egos of both Ingka and each other. Kingstree West, for example, has begun construction of a 74.9-Megawatt solar sub-station and accompanying land preparation for solar arrays in Williamsburg County but it has **NOT** filed its own S.C. Public Service Commission application for a Certificate of Environmental Compatibility & Public Necessity because **(it claims)** it is under the 75.0- MW threshold.

Ms. Resar is shown as an officer of Kingstree West – in addition to her testimony that she was Development Lead for Kingstree East and Acquisition Manager for Ingka. [Tr. 19: 13-14]. Moreover, all the attachments in this document were created by the Timmons Group – the same firm that created and submitted documents with **at least one** error in this docket number! [Matter ID No. 324561 Exhibit A Map].

Therefore, the Commission should have considered a combined 323.9 MW-AC facility – comprised of at least two (2) sub-facilities in Williamsburg [notwithstanding the 'Kingstree West 69' project]. **Obviously, this is a "piece and parcel "approach of one major utility scale solar project.** As Ms. Resar stated in the PSC hearing, all the properties, cumulatively speaking, are owned by Ingka! Therefore, since Kingstree West was incorporated first with the Secretary of State of SC (4-07-23) and subsequently Kingstree East, Ingka and Kingstree East & West should have filed a "Master Plan" that links all of these individual projects into the "Master Plan."

In reference to taxes, Williamsburg County Ordinance (2023-05) establishes the creation of a Multi-County Industrial Park, the Special Source Revenue Credit agreement, a payment in lieu of taxes section (with exemption of ad valorem taxes), and the

calculation of MW payment for the 74.9 MW facility. Therefore, to establish an amount of taxes to be paid to the county at this time is impossible. Kristen Resar testified before the PSC, without evidentiary support, that the amount would be $800,000.00 per year Tr. 49:2-19].

B. PROCEDURAL HISTORY.

1. Initial (Statutory) Notice.

The first, statutory notice was placed on June 26, 2024 in the *The News (Kingstree)* – a weekly local newspaper in Kingstree, the county seat of Williamsburg County – as well as *The Georgetown Times* (on June 26, 2024) and *The Charleston Post & Courier* (on June 21, 2024) [Matter ID No. 324627].

The notice indicated that on or about July 1, 2024 – which actually took place on July 5, 2024 – Respondent would apply to the PSC for a certificate of environmental compatibility and public convenience and necessity on a project described as "a 249 MW AC solar photovoltaic generating facility with associated facilities, to include a 230kV sub station and a span of 230k line," to be sighted on 4,700 acres of land owned by Ingka Forest Investments, LLC (f/k/a IRI Forest Assets, LLC). [Matter ID No. 324627].

Nothing in the "Notice" indicated that citizens could intervene or oppose it. It merely said that once filed, it would be available for review on "the Commission's website" or at the PSC's headquarters [no docket number was included]. [*Id*.]. Any person wishing to comment on the matter could write or email the PSC, along with sending a copy [of the commenter's email or letter] to Respondent's counsel (!), with anyone seeking further information being given the PSC's public number and/or its website. [*Id.*].

2. Respondent as the Sole Party to the Application.

On July 5, 2024, Respondent applied to the S.C. Public Service Commission ("PSC") for a certificate of "environmental compatibility and public convenience and necessity" [Matter ID No. 324566] to construct a "major utility facility" (as defined by Section 20(2)(b) of the Act and which is governed by the Act's Section 110). [S.C. Code Ann. §§ 58-33-20(2)(b) and 58-33-110]. Appellant is an intervenor as defined by S.C. Code Ann. § 58-33-140(1)(d) and has opposed the PSC's grant of a certificate of approval as a *pro se* litigant.

The "major utility facility" was ostensibly "a 249 MW AC solar photovoltaic generating facility" with associated facilities, to include a 230kV sub-station and a span of 230k line." [*Id.*]. As will be discussed more at length below, however, Appellant contends that this is actually a sub-project of a larger project spread over various sites within Williamsburg County.

Furthermore, the PSC immediately notified Respondent by letter of the same day (July 5, 2024) that Respondent had until July 19, 2024 to file its list of witnesses, pre-filed testimony and exhibits under the procedural schedule. [Matter ID No. 324574]. Then, within five days – July 10, 2024 – Respondent was given the hearing date (Thursday, September 12, 2024) when directed to publish the regulatory Notice of Filing and Public Hearing. [Matter ID No. 324662 Notice to Newspapers]. Respondent also received notice that same day that "all other parties of record" and the [Office of Regulatory Staff ("ORS")] had to comply with a regulatory schedule by submitting a list of witnesses, pre-filed testimony and exhibits by August 15, 2024. [*Id*., PSC Pre-Filing Deadlines letter of 7.10.24].

3. Non-Timely Publication of Second, Regulatory Notice.

As stated above, Respondent was required to publish a *regulatory* notice – by letter from the PSC Clerk's office of July 10, 2024. [Matter ID No. 324662]. According to the letter, by July 19, 2024,Respondent had to "[p]ublish at its own expense" the initial 'Notice of Filing and Public Hearing,' and to provide "Proof of Publication" by August 9, 2025. [*Id*.]. More importantly, the deadline for Intervention was set for August 9, 2024, with a public hearing set for September 12, 2024 [*Id*.]. The Respondent failed to publish the *second* Notice with a newspaper of record by the July 19, 2024 deadline.

4. Respondent Request to Postpone.

However, six days later, Respondent's counsel (on July 16, 2024)[1] emailed the PSC and requested that the procedural schedule be modified by pushing the dates back two (2) weeks back; he also requested a scheduling conference. (Matter ID No. 324845). The PSC did not grant Respondent's request because the next day (July 17, 2024) issued a *revised* Notice of Filing and Public Hearing and revised Pre-File Testimony Deadlines (though attached to the email of [7.17.24], neither are included in the docket on that date).. Respondent was "fine" with these mystery "new" dates. (Matter ID No. 324898).

The PSC also issued a *Notice of Filing and Hearing and Prefile Testimony Deadlines* [7.18.24] which said that "all other parties of record" and the [Office of Regulatory Staff ("ORS")] had to submit their list of witnesses, pre-filed testimony and exhibits by September 5, 2024. (Matter ID No. 324908).

The PSC promulgated its *revised* Notice of Filing and Public Hearing on July 18, 2024. [Matter ID No. 324908]. The revised Notice has the *same* deadline for intervenors to intervene (August 9, 2024) and the *same* public hearing date (September 12, 2024),

[1] Three days before the deadline to publish the first Notice of Filing and Public Hearing.

but no PSC transmittal letter was filed. [*Id*.; compare to transmittal letter in Matter ID No. 324662].

An Affidavit of Service from *The News*, however, shows the publication going out past the 7.19.24 deadline on July 24, 2024 with both the original and revised Notices. [Matter ID No. 325206]. Also, *The Georgetown Times* and *The Charleston Post & Courier* published the revised Notice on July 24, 2024. [Matter ID No. 325212].

5. Before She Can Even Intervene, Appellant Has No Time.

Thus, by means of this stunt, the Appellant had only fifteen (15) days – from the publication of Notice on July 24, 2024 until the deadline to intervene August 9, 2024 – to become an Intervenor. She filed a petition for intervention on August 8, 2024. [Matter ID No. 325504]. A PSC hearing officer slow-walked the Petition – granting it only after fifteen (15) days later on August 23, 2024 despite not noting any objection. [Matter ID No. 325784]. Based on the Revised Pre-File Testimony Deadlines from July 18, 2024, the Appellant only had thirteen (13) days to submit her list of witnesses, pre-filed testimony and exhibits by September 5, 2024. [Matter ID No. 324908]. This is outrageous.

6. ***The Appellant Was Then Ignored.***

Notwithstanding that she was denied time, the PSC also ignored her. For instance, on October 21, 2024, she requested a status conference "so that clarification can be provided on the remaining dates and possible submissions needed." [Matter ID No. 326920]. [Matter ID No. 327502, Email #2]. She asked a second time a month later on November 21 and also asked some procedural questions. [Matter ID No. 327509]. Appellant had received notice that the Status Conference was set for December 2 [Matter ID No. 327508]; but when the Clerk wrote back on November 26 to say that the status conference was cancelled because "these are questions can and will be addressed in writing by a separate responsive email." [Matter ID No. 327502, Email #2]. In fact, her

questions were never answered, apparently 'lost' in the Thanksgiving 2024 shuffle.

ISSUES ON APPEAL

1. Did the PSC err when it violated the Appellant's substantive due process rights by **not** giving her sufficient time to marshal her witnesses and exhibits?

2. Did the PSC err by not requiring the Respondent to provide credible information demonstrating that the facility to be built has been compared to other generation options in terms of cost and reliability, pursuant to S.C. Code Ann. § 58-33-110(8)(a)?

3. Did the PSC err by allowing this Solar Project to be assembled "piece and parcel"?

STANDARD OF REVIEW

In an appeal from the Public Service Commission, appellate review is governed by S.C. Code Ann. § 1-23-380. *See*, *Duke Energy Carolinas, L.L.C. v. S.C. Off. of Regul. Staff* , 434 S.C. 392, 406, 864 S.E.2d 873, 880 (2021). "Pursuant to that statute, the Court may not substitute its judgment for an agency's judgment as to the weight of the evidence on questions of fact." *Id.* (citing S.C. Code Ann. § 1-23-380(5)). Rather, the Court may only reverse or modify a decision of the PSC "when the findings or conclusions are affected by an error of law, clearly erroneous, or arbitrary and capricious." *Id.* (citing S.C. Code Ann. § 1-23-380(5)(d)–(f)). The Court must view the PSC's findings on appeal as "presumptively correct." *S.C. Energy Users Comm. v. S.C. Pub. Serv. Comm'n* , 388 S.C. 486, 491, 697 S.E.2d 587, 590 (2010).

Thus, "the party challenging the [PSC's] order bears the burden of convincingly proving the decision is clearly erroneous, or arbitrary or capricious, or an abuse of discretion, in view of the substantial evidence of the record as a whole." *Id.* "Substantial evidence" is not a mere scintilla of evidence nor evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached or must have reached in order to justify its action. *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 276 S.E.2d 304, 306 (1981). Substantial evidence is something less than the weight of the

evidence and the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence. *Ellis v. Spartan Mills*, 276 S.C. 216, 277 S.E.2d 590 (1981). A judgment upon which reasonable men might differ "will not be set aside." *Lark v. Bi-Lo, Inc.*, 276 S.E.2d at 307.

I. The PSC Violated Appellant's Substantial Due Process.

The first and most clearly erroneous decision of the PSC was to allow the hearing to proceed despite limiting Appellant fair time -- just thirteen (13) days – either to present her case in any meaningful way or protect her appellate rights.

The South Carolina Utility Facility and Environmental Protection Act ("Siting Act") is found at S.C. Code § 58-33-10 *et seq*. and decisions under it Siting Act for the approval of major public utilities are supposed to be decided by the Commission, Still, the PSC and the Appellant had to "work" the system to deny any Intervenors the opportunity to be heard as parties. S.C. Code Ann. § 58-33-285.

The United States Supreme Court has held that "[a]ny party in an administrative agency proceeding is entitled to certain procedural opportunities of notice and a fair hearing; which are the identical rules in South Carolina. *See Morgan v. United States*, 304 U.S. 1, 58 S.Ct. 773, 82 L.Ed. 1129 (1938); *Palmetto Alliance, Inc. v. S.C. Public Service Commission*. 282 S.C. 430, 435, 319 S.E.2d 696, 698 (1984).

Here, Appellant can easily prove that she was denied due process, because she was from the get-go completely railroaded by the Commission and the Respondent. A review of the salient facts shows this:

- Per the revised *Notice of Filing and Hearing and Prefile Testimony Deadlines*

[7.18.24], "all other parties of record" and the [Office of Regulatory Staff ("ORS")] had to submit their list of witnesses, pre-filed testimony and exhibits by September 5, 2024. (Matter ID No. 324908).

- Despite being a revised Notice, it still had the same deadline for intervenors to intervene (August 9, 2024) and the *same* public hearing date (September 12, 2024).

- The PSC published no transmittal letter and allowed Respondent to publish the "revised" notice was served six (6) days late, on July 25, rather than the day after it was issued July 19, 2025 (Matter ID No. 325206 & 325212).

- Because the PSC only granted her Petition to Intervene on August 23, 2024 (Matter ID No. 325784), this meant Appellant had only thirteen (13) days to submit her list of witnesses, pre-filed testimony and exhibits by September 5, 2024. (Matter ID No. 324908).

Thirteen (13) days is – on its face – insufficient time for Appellant, a pro se Intervenor, to accomplish these tasks! She could never marshal her witnesses, submit testimony or exhibits within that little amount of time. "Reasonable minds" on the Commission could not have expected her to do so.

Here, the required showing of "substantial prejudice" can easily be demonstrated because the Commission and Respondent took great delight in pointing out to the Appellant over and over that she had not met her burden of proof – because she had not filed her witness statements, testimony or exhibits. [Feb 20 Order No 2025-24, pp. 5, 14, 20, 25].

Nowhere in the South Carolina Siting Act [S.C. Code § 58-33-10 *et seq*.] does it mandate or require that the Commission establish such an abbreviated time. Nothing about the Project necessitates the Commission adopt such an unconstitutional and arbitrary period of time either, but this is exactly what happened.

A review of the record discloses that there is no evidence which could **reasonably support** any finding by the PSC or Respondent as to the fairness of limiting the deadline for intervenors to submit witnesses and exhibits. *Cf. Townes Assocs., Ltd. v. City of*

Greenville, 266 S.C. 81, 85, 221 S.E.2d 773, 775 (1976) ("a review of the record discloses that there is no evidence which reasonably supports the jury's findings"); *In re Chapman*, 419 S.C. 172, 796 S.E.2d 843 (2017). In fact, the PSC abused its discretion in cutting off the Appellant's ability to put together witnesses and exhibits. *Cf. Winkler v. State*, 418 S.C. 643, 795 S.E.2d 686 (2016) (finding that PCR trial court abused discretion in denying additional time to analyze MRI and PET scans).

"In order to prove a denial of substantive due process, a party must show that he was arbitrarily and capriciously deprived of a cognizable property interest rooted in state law." *Dunes W. Golf Club, LLC v. Town of Mount Pleasant,* 401 S.C. 280, 296, 737 S.E.2d 601, 609 (2013). The fundamental requirements of due process include notice, an opportunity to be heard in a meaningful way, and judicial review. S.C. Const. art. 1, § 22; *Stono River Envtl. Protection Ass'n v. S.C. Dep't of Health and Envtl. Control*, 305 S.C. 90, 94, 406 S.E.2d 340, 342 (1991). Due process is flexible and calls for such procedural protections as the particular situation demands. *S.C. Dep't of Soc. Sens. v. Wilson*, 352 S.C. 445, 452, 574 S.E.2d 730, 733 (2002). Furthermore, proof of a denial of due process requires a showing of substantial prejudice. *Palmetto Alliance, Inc,*. 282 S.C. at 435, 319 S.E.2d at 698.

Here, Dr. Lane had a due process right to function as an Intervenor, which is rooted in State law. In spite of this, she was denied her due process right to fairly prosecute her case because she was denied time to file her witness statements and exhibits. The only explanation is that the Respondent wanted its solar farm to be approved without objection, and, for whatever reason, the PSC was happy to knee-cap Appellant.

Appellant could not raise this issue to the PSC because it was already decided **before** she ever intervened. [Matter ID No. 324908]. As stated above, the PSC ignored

every request for information. submissions needed. [Matter ID No. 326920; 327502, Email #2]. 327509; 327508]; when the Clerk wrote back to Appellant on November 26 to say that a status conference was cancelled because "these are questions that can and will be addressed in writing by a separate responsive email." [Matter ID No. 327502, Email #2]. In fact, her questions were never answered, apparently 'lost' in the Thanksgiving 2024 shuffle. To a *pro se* Intervenor, this is a clear signal that the PSC is not changing or going to change anything.

Appellant never got – or could ever get – a fair hearing with sufficient time given to marshal her witnesses and evidence. A *pro se* litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law. *State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9, n.5 (2003). But a *pro se* litigant participating in a civil or administrative action or defense may be sanctioned for filing a frivolous pleading, motion, or document. *Ex parte Gregory*, 378 S.C. 430, 437, 663 S.E.2d 46, 50 (2008). The PSC ignored Appellant's multiple pretrial motions and requests; the Respondent and Commission worked together to make sure she was not able to do anything and did nothing to stop their train. This is not right.

II. The PSC Did Not Require Respondent to Compare 'Cost & Reliability.'

As set forth herein, infra, the South Carolina Utility Facility and Environmental Protection Act ("Siting Act") [S.C. Code § 58-33-10 *et seq*.] is the principle statutory scheme which governs this Appeal. In seeking a certificate under the Act for a "Major Utility Facility" [as defined in S.C. Code Ann. § 58-33-20(2)]:

> "the applicant **must** provide credible information demonstrating that the facility to be built has been compared to other generation options in terms of cost, reliability, schedule restraints, fuel cost and availability, transmission constraint and costs, ancillary service capabilities, current and

> reasonably expected future environmental costs and restrictions, and the facility support systems and efficiency reliability in light of those considerations and any other regulatory implications deemed legally or reasonably necessary for consideration by the commission. (emphasis added)."

S.C. Code Ann. § 58-33-110(8)(a). This is commonly known as "cost & reliability." While the Office of Regulatory Counsel **may** provide the PSC with independent evaluations or assessments [Act Section 110(8)(b)], the showing to be provided by the applicant cannot be ignored before the PSC; it must make this showing. § 58-33-110(8)(a). "The cardinal rule of statutory interpretation is to ascertain and effectuate the intention of the legislature." *Sloan v. Hardee,* 371 S.C. 495, 498, 640 S.E.2d 457, 459 (2007). *See also Thompson v. Killian*, Appellate Case No. 2023-000442 at * 28305 (S.C. Nov 05, 2025) ("In South Carolina, the guiding principle of statutory interpretation is to give effect to the legislature's intent"). Therefore, the courts are bound to give effect to the expressed intent of the legislature." *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000)." "What a legislature says the text of a statute is considered the best evidence of the legislative intent or will." *Id.* at 88, 581. "When a statute's terms are clear and unambiguous on their face, there is no room for statutory construction, and a court must apply the statute according to its literal meaning." *Id.* "Words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation." *Id.* at 499, 640 S.E.2d at 459. "Under the plain meaning rule, it is not the court's place to change the meaning of a clear and unambiguous statute." *Hodges v. Rainey,* 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000).

Here the General Assembly clearly provided that the **applicant** (i.e., the Respondent) must provide credible information" as to cost and reliability. In this case,

"cost" means the cost to the customer because Respondent says that they are the private company building a solar project. "Reliability" equals reliable service of energy to the customer.

Thus, under the Siting Act, a sufficient response addressing cost and reliability for a major utility scale electric power project must demonstrate, with supporting evidence, that the proposed facility is more cost-effective and maintains or improves reliability compared to other feasibly available long term power supply alternatives, and that its construction is in the public interest.

For cost requirements, the following represent the kinds of findings which the Respondent had a duty to present, and the PSC had a duty to include in its findings of fact if they were shown by the Respondent:

- The Public Service Commission (PSC) requires a detailed estimate of construction and operational costs, including future operating expenses.
- The project must be shown, by a preponderance of the evidence, to be the most cost effective solution versus alternatives such as power purchase agreements, market purchases, competitive procurement, regional transmission organization participation, or advanced energy technologies.
- The PSC assesses whether the facility provides less ratepayer risk than other available options and is consistent with the utility's approved expansion plans.

Similarly, for reliability requirements, the Respondent could have proven to the PSC's satisfaction that;

- The utility must show the facility will maintain safe and reliable service.
- The analysis should evaluate system needs, resource adequacy, operating reserves, resource and fuel diversity, and arrangements for interconnection or power pooling.
- Comparisons should be made, using modeling or resource planning analyses, to other generation options to demonstrate that the project strengthens reliability and meets peak demands.
- The PSC considers if energy efficiency, demand-side management, or renewable alternatives would provide greater reliability or cost savings.

- The commission must review evidence, testimony, and prior resource planning analyses to ensure regulatory compliance and public benefit.

- Selection of a generation project through a competitive process, such as a request for proposals, can be used to confirm favorable cost and reliability compared to alternatives.

- The PSC must make formal findings that the costs are approved, the reliability standards are upheld, and the project fits within the state's energy planning framework before issuing a certificate to proceed. This response should clearly document comparison methods, criteria for cost-effectiveness, reliability analyses, and how the project addresses both statutory requirements and public interest benchmarks.

Neither the PSC nor the Respondent, however, proved or made, respectively, any such findings of fact. While the PSC did state the requirement of "cost and reliability" in the final Order. [Feb. 20, 2025 Order No 2025-24, p. 8.].[2] and also said that "[t]he Applicant has demonstrated the Solar Project was compared to other generation options in terms of cost, reliability, and any other regulatory implications deemed legally or reasonably necessary for consideration by the commission as required by S.C. Code Ann. section 58-33-110(8)(a)." [*Id*., p. 11 at (15)], it nevertheless failed to provide credible information, supplied by the Respondent, demonstrating the solar farm project was superior to other generation options in terms of cost and reliability. This is fatal.

The PSC may find the Respondent's solar project generally "justified" but it cannot jump to the conclusion that it "has been compared to other generation options in terms of cost and reliability" – when nothing was included by Respondent on these items! [*Id*., p. 39-40]. Here, the Respondent never submitted any evidence into the record which meets the Siting Act § 110(8)(a). The PSC never made a finding in the final Order that the Respondent had included any testimony as to cost or reliability. [*Id*., pp. 28-33], despite indicating that it was (a) including findings relative to Finding of Fact # 15 and (b) analyzing five (5) witnesses [Resar, Glick, Thomas, Meares & Tyrer]. While the PSC then reiterated Section 110(8)(a) of the Siting Act [stating that "Finally, no major utility facility

can begin construction without first demonstrating that "the facility to be built has been compared to other generation options in terms of cost, reliability, and any other regulatory implications deemed legally or reasonably necessary for consideration by the commission"], it includes **nothing** from the applicant, Kingstree East 230, LLC, which is on point on point as to Section 110(8)(a). [Feb. 20, 2025 Order No 2025-24, p. 36]. Even Devi Glick, offered as an expert by Respondent, did not and/or could not offer testimony at the hearing on "cost and reliability" to satisfy § 110(8)(a). [Transcript p. 188 line 20 – p. 202 line 8]. Ms. Glick specifically testified on cross-examination that she did <u>not</u> evaluate other alternative sources – "So, the scope of my analysis was to evaluate this particular project." [Transcript p. 195 line 24 – p. 196 line 9].

It's almost like the PSC liberally included Section 110(8)(a) to make a **show** of compliance with the requirements of the Siting Act but included nothing from Respondent to prove compliance with § 110(8)(a). … or include anything credible that substantiated this required showing. This is clearly in error.

III. The PSC Has Allowed Respondent to Assemble This Project by 'Piece & Parcel' Rather Than As a Unitary Project.

Kingstree East 230, LLC (hereinafter "Kingstree East") applied to the PSC for a "Certificate of Environmental Compatibility and Public Convenience and Necessity", about a utility scale solar project (hereinafter a "Solar Project") known as the "4700 acres" be constructed in Williamsburg County, with a request to proceed with initial construction work (S.C. Code Ann § 58-33-110 (7)). [Application]. In the Docket, Kristen Resar testified that Ingka Investments BV owns 100% of the shares of Ingka Investment US, Inc., which is the sole owner of the Applicant "Kingstree East"). [Tr. pp. 38-41].

Now, Kingstree East is a **separate, distinct company** from Kingstree West 115, LLC ("Kingstree West"). According to the public records of the S.C. Secretary of State,

Kingstree West 115 was incorporated first on 4/07/23; then Kingstree East 230 was later incorporated on 8/21/23. While they are denominated as separate companies, it appears that Kingstree East and West are really alter egos of both Ingka and each other.

Kingstree West, for example, has begun construction of a 74.9-Megawatt solar **sub station** in Williamsburg County [as demonstrated by its application for a SCDHEC stormwater permit], but it has not filed its own S.C. Public Service Commission application for a Certificate of Environmental Compatibility & Public Necessity because (it claims) it is under the 75.0-MW threshold.

[redacted]

[redacted]

The Commission stated that: "[t]he Solar Project will likely impact three parcels of land, equaling approximately 4,700 acres, but only about one-third of the total acreage will be needed for its actual footprint. [Tr. 20:22-25. p. 12]." [Feb. 20, 2025 Order No 2025- 24]. This shows that all parts of the Solar Project are part of the same plan regardless if owned by Kingstree East or West!

Therefore, the Commission should have considered a combined 323.9 MW-AC facility – comprised of at least two (2) sub-facilities in Williamsburg [notwithstanding the 'Kingstree West 69' project]. **Obviously, this is a "piece and parcel "approach of one major utility scale solar project.** As Ms. Resar stated in the PSC hearing, all the properties, cumulatively speaking, are owned by Ingka! Ingka and Kingstree East & West should have filed a "Master Plan" that links all of these individual projects into the "Master Plan."

CONCLUSION

For these reasons, the Appellant requests that the PSC's February 20, 2025 Order be reversed.

Respectfully submitted,

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Cheryl O. Lane, Ph.D.

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Appellant

March 26, 2026
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