RECEIVED

Aug 17 2026

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 2026-001597

Public Service Commission of South Carolina;

Dominion Energy South Carolina, Inc.…………...………………………..........…Respondents

v.

Thomas M. Ragon Jr………...……………………………..…………………...........…..Appellant

---

APPELLANT'S RETURN IN OPPOSITION TO
RESPONDENT'S MOTION TO DISMISS

Thomas Michael Ragon Jr.
711 London Drive
Charleston, SC 29412
(843)-200-5447
Pro Se Appellant

David Stark, Staff Counsel
101 Executive Center Drive Suite 100
Columbia, South Carolina 29210
(803)-896-5100
Attorney for Respondent (Public Service Commission)

Elizabeth L. Hutton, Counsel
220 Operation Way MC OSC 1A
Cayce, SC 29033
(803)-217-7887
Attorney for Respondent (Dominion Energy South Carolina, Inc.)

K. Chad Burgess, Managing Counsel
220 Operation Way - Mail Code OSC 1A
Cayce, South Carolina 29033
(803)-217-8141
Attorney for Respondent (Dominion Energy Services, Inc.)

Michael J. Anzelmo, Counsel
McGuireWoods LLP
1301 Gervais Street, Suite 1310
Columbia, SC 29201
(803)-251-2313
Attorney for Respondent (Dominion Energy South Carolina)

Pursuant to Rule 240(e), SCACR, Appellant, Thomas M. Ragon Jr., appearing pro se, respectfully submits this Return in Opposition to Respondent's Motion to Dismiss. For the reasons set forth below, Appellant respectfully requests that this Court strike Respondent's Motion to Dismiss with prejudice.

I. THRESHOLD ISSUE:

RESPONDENT'S MOTION IS PROCEDURALLY DEFECTIVE AND MUST BE STRUCK IN LIMINE

Before reaching the merits of Respondent's timeline and standing assertions, Appellant respectfully submits that Respondent's Motion to Dismiss is facially non-compliant with the South Carolina Appellate Court Rules and must be struck.

Respondent seeks the extraordinary sanction of dismissal while simultaneously failing to comply with the mandatory filing requirements governing motions before this Court. Rule 240(c)(2), SCACR, provides that every motion or petition:

> "*shall include… A memorandum with citation of authorities in support of the motion.*"

Respondent filed no memorandum of law. This omission is not a technicality; it is a required component of a valid motion. The memorandum is the mechanism through which the moving party demonstrates entitlement to relief and provides the Court with the authorities necessary to evaluate the request.

Rule 240(g) further provides:

> "*Failure of the moving party to perform any act required by this Rule may be deemed an abandonment of the motion or petition.*"

Respondent cannot invoke strict procedural rules to seek dismissal while simultaneously abandoning its own motion through noncompliance with Rule 240. Because Respondent failed to include the mandatory memorandum, the Motion to Dismiss is structurally incomplete, legally abandoned, and must be struck.

II. RESERVATION OF RIGHTS

Appellant raises the foregoing threshold defect to preserve all procedural objections. The arguments that follow are submitted solely to prevent prejudice and to facilitate judicial economy should the Court elect to reach the merits. Appellant's engagement with Respondent's standing and timeline assertions is strictly provisional and does not constitute waiver of the threshold objection that Respondent's Motion is a procedural nullity.

III. INTRODUCTION

Respondent Dominion Energy South Carolina, Inc. ("DESC") seeks dismissal of this appeal by relying on a selectively constructed timeline and a narrow, adversarial definition of "party" designed to obscure systemic procedural failures by the Public Service Commission of South Carolina ("Commission").

Respondent asserts that Appellant "never sought to intervene" and is therefore not an aggrieved party under Rule 201, SCACR. This argument omits critical facts: the Commission and Respondent coordinated procedural steps that eliminated the statutory intervention window before the public was even aware the docket existed. Respondent then attempts to bootstrap the Commission's verbatim adoption of Respondent's own filings to manufacture a standing defect.

The procedural defects in this docket mirror those presently before this Court in Appellate Case No. 2026-001436. In both matters, the Commission and Respondent followed the same blueprint:

1. Waive mandatory public notice and hearing, eliminating the statutory intervention window.

2. When a ratepayer challenges the un-noticed action, declare the ratepayer "not a party."

3. Adopt Respondent's adversarial filings verbatim as Commission orders, avoiding review of the merits.

4. Rely on delayed mail service to manufacture timeline defects and suppress appellate review.

Granting Respondent's Motion to Dismiss would ratify this pattern and permit utilities to bypass statutory safeguards simply by drafting the Commission's orders for them.

IV. THE "NOTICE BLACKOUT" AND THE CATCH-22 OF INTERVENTION

Respondent argues that Appellant lacked standing because he “never sought to intervene.” This argument omits the dispositive fact that the Commission eliminated the statutory mechanism that makes intervention possible.

- **February 13, 2026:** DESC filed its initial request to increase the Pension Rider and expressly requested waiver of notice and hearing under S.C. Code Ann. § 58-27-870(F). (Ex. A at 2)
- **February 26, 2026:** Thirteen days later, the Commission issued Directive Order No. 2026-116 granting the waiver. (Ex. A at 18)

By waiving public notice, the Commission extinguished the statutory intervention window. A ratepayer cannot intervene in a proceeding that was never noticed to the public. Respondent now seeks to penalize Appellant for failing to intervene in a docket that was procedurally sealed from the outset.

When Appellant discovered the un-noticed docket and filed a Petition for Reconsideration on March 18, 2026 (Ex. A at 24), the Commission denied it solely because “Mr. Ragon is not a party to this docket.” (Ex. A at 37) This created a regulatory Catch-22: the Commission prevented Appellant from becoming a party by waiving notice, then denied Appellant’s filings because he was not a party.

V. STATUTORY STANDING: "PARTY IN INTEREST"

Respondent’s entire premise relies on conflating a procedural "party of record" with the statutory substantive standing granted by the General Assembly.

Under S.C. Code Ann. § 58-27-2150, any **" party in interest."**[1] may petition for reconsideration. The statute does not limit reconsideration to formal intervenors—particularly where intervention was made impossible by the Commission's waiver of notice.

Appellant is a captive retail electric customer whose monthly bill is directly affected by the Pension Cost Component Rider approved in this docket. (Ex. A at 25) Appellant therefore satisfies the statutory definition of "party in interest" and possessed standing to file the May 5, 2026 Petition for Reconsideration (Ex. A at 75-88) challenging Order No. 2026-247 (Ex. A at 63-69).

Additionally, S.C. Code Regs. 103-830.1 provides that a Notice of Appearance establishes party status for purposes of service.[2] Appellant filed a formal Notice of Appearance (Ex. A at 21) contemporaneously with his first Petition, thereby establishing standing by operation of law. Respondent's counsel, by contrast, never filed a Notice of Appearance in this docket.

It is inconsistent for Respondent to demand strict adherence to intervention protocols while failing to perfect its own appearance on the administrative record. (Ex. A at 75-77)

[1] *See* Ex A *at 25*. *See also* Ex A *at 76-77.* Appellant raised the party in interest. Commission, twice in denial, issued full orders denying Appellant as if he were a Party of Record. Either striking or ignoring the petition would have validated the opposing positions. In stead they treated Appellant as if he were a party of record while telling him he is not a party of record in a full written order.

[2] S.C. Code Regs.103-830.1 Upon a notice of appearance by a party in a docket or, in the case of an intervenor, the filing of a Petition to Intervene, service of filings made in a docket at the Commission shall be made through email or electronic service. The appearance of a party, or the filing of a Petition to Intervene in the docket evidences the consent of the party or Intervenor to accept service by email or electronic service. The notice of appearance filed by the party or Intervenor shall include an email address to receive electronic service of filings. If a party does not have the ability for electronic service, the party shall be served by traditional means.

VI. VERBATIM ADOPTION AND EVASION OF MERITS

Respondent relies on the denial of Appellant's May 4 Petition for Reconsideration to argue that the appellate clock expired. However, that denial reveals a fundamental breakdown in the Commission's quasi-judicial independence and an explicit refusal to evaluate the evidence presented.

Following the issuance of Order No. 2026-247 (Ex. A at 63), which approved a materially revised and entirely new rate increase submitted by DESC on April 10, 2026 (Ex. A at 42), Appellant timely filed a Petition for Reconsideration on May 4, 2026. (Ex. A at 87, 89–91) Although the petition was inserted into the docket on May 5 with an incorrect filing date (Ex. A at 49–50), the contemporaneous email timestamp confirms the petition was filed on May 4. The petition challenged the Commission's reliance on stale actuarial data and the un-noticed 26% rate increase—concerns expressly acknowledged by ORS on April 15, 2026, when ORS warned that the data "would not incorporate any decisions of the Federal Reserve" and could "result in additional changes to the balance of Pension Rider collections." (Ex. A at 49–50)

Instead of addressing the substantive statutory and mathematical defects raised by Appellant, DESC filed a response on May 11, 2026, asserting only that "Mr. Ragon is not a party," that the petition was an "improper second petition for reconsideration," and that the petition "fails to set forth any basis for rehearing." (Ex. A at 168–169) Respondent did **not** assert that the May 4 petition was untimely. This omission is dispositive. A party cannot litigate the merits of a petition before the Commission and then, for the first time on appeal, manufacture a timeline defect that was never raised or preserved at the agency level. Judicial estoppel bars Respondent from adopting inconsistent positions in separate phases of the same proceeding.

Respondent's characterization of the May 4 filing as a "second petition for reconsideration" is factually incorrect. The March 18 petition challenged Directive Order No. 2026-116, which waived notice for DESC's original request. The May 4 petition challenged Order No. 2026-247, which approved a materially revised and entirely new rate increase submitted on April 10, 2026. These are distinct orders addressing distinct requests. The May 4 petition was the first petition directed at Order No. 2026-247.

Respondent's own letter further undermines its standing argument by referring to Appellant as "Intervenor Thomas M. Ragon Jr." (Ex. A at 168). Respondent cannot simultaneously argue that Appellant was not a party while addressing him as an intervenor in formal filings.

On June 4, 2026, the Commission issued Order No. 2026-316 (Ex. A at 181–185), adopting Respondent's May 11 framing verbatim and declining to address any substantive issues raised in Appellant's petition. This wholesale adoption of Respondent's adversarial position, without independent analysis, constitutes an evasion of the merits and a failure to perform the quasi-judicial duties imposed by S.C. Code Ann. § 58-3-250(A)(1).

VII. THE SERVICE VS. ISSUANCE TRAP AND THE FABRICATED TIMELINE

Respondent argues that the appellate window closed on June 1, 2026, and that Appellant's July 16 Notice of Appeal was nearly two months late. This calculation rests on two false premises: (1) that Appellant lacked standing to file the May 4 Petition for

Reconsideration, and (2) that the appellate clock runs from the date of issuance rather than the date of statutory service.

Because the Commission eliminated the intervention window, Appellant's status as a prejudiced "party in interest" rendered his May 4 Petition for Reconsideration a valid filing under S.C. Code Ann. § 58-27-2150. A valid petition for reconsideration tolls the appellate clock. Accordingly, the deadline to appeal Order No. 2026-247 did not expire on June 1, 2026.

Rule 203(b)(6), SCACR, provides that the 30-day period to file a Notice of Appeal begins upon **receipt of written notice** of entry of the order, not the date the order is signed or uploaded.

The administrative record and physical mail receipts conclusively refute Respondent's timeline:

1. The May 4 Petition Was Timely Under Any Standard

Respondent attempts to invalidate Appellant's May 4 Petition by triggering the 10-day statutory window on the April 30 issuance date of Order No. 2026-247. (Ex. A at 63–69) However, the Commission's own metadata shows that electronic service of Order No. 2026-247 was not transmitted to DESC's counsel, Commission Staff Counsel, or the Consumer Advocate until **May 4, 2026 at 4:15 PM**. (Ex. A at 70)

Appellant filed his Petition for Reconsideration at **11:53 PM on May 4, 2026**—seven hours after service was finally transmitted. (Ex. A at 91)

Under § 58-27-2150, the 10-day window begins "after service of notice." Because Appellant filed on the same day service was effectuated, the petition was indisputably timely.

2. The July 16 Notice of Appeal Was Timely

Because the May 4 Petition tolled the appellate clock, the 30-day period to appeal Order No. 2026-316 began only upon Appellant's receipt of written notice.

Respondent relies on the June 4 issuance date. But the certified USPS envelope containing Order No. 2026-316 is postmarked **June 5, 2026**, and the postal carrier's handwritten log confirms that notice was not left at Appellant's residence until **June 8, 2026 ("LN 6/08")**. (Exhibit B)

Appellant, lacking personal transportation, retrieved and signed for the certified mail on **June 24, 2026**.

Respondent asks this Court to dismiss an appeal based on deadlines that allegedly expired before Appellant ever received legal service. Calculating the appellate window from the date of actual receipt—as Rule 203 requires—renders Appellant's July 16 Notice of Appeal flawlessly timely.

VIII. JUDICIAL ESTOPPEL AND WAIVER OF TIMELINESS DEFENSE

Respondent has waived any timeliness defense regarding the exhaustion of administrative remedies. In its May 11, 2026 response to the Commission, Respondent challenged Appellant's May 4 Petition for Reconsideration on exactly three grounds: (1) Appellant was allegedly not a party, (2) the petition was characterized as an improper "second" petition for reconsideration, and (3) the petition purportedly failed to set forth a basis for rehearing. (Ex. A at 168–169)

Respondent did **not** assert that Appellant's filing was untimely or outside the statutory window. This omission is legally significant. Judicial estoppel applies where a party adopts inconsistent positions in separate phases of the same proceeding to obtain a procedural advantage. Respondent litigated the petition before the Commission solely on standing and substance; it cannot now manufacture a timeline defect for the first time before this Court.

It is a foundational principle of administrative appellate practice that issues not raised before the agency are not preserved for appellate review. Respondent is judicially estopped from asserting a timeliness defense that was never presented to the Commission.

IX. THE FALLACY OF THE "SUCCESSIVE" PETITION

Respondent argues that Appellant's May 4 Petition for Reconsideration was an "improper second petition for reconsideration." (Ex. A at 168) This argument misrepresents the procedural posture and ignores the material alteration of the underlying request.

The general bar on successive petitions presupposes that the petitioner is challenging the same, unaltered underlying judgment. That is not what occurred here.

1. The First Petition

Appellant's March 18, 2026 petition challenged Directive Order No. 2026-116, which waived notice for DESC's original request for a $0.00049 per kWh increase—a 158% increase. (Ex. A at 24–31)

2. The Material Alteration

On April 10, 2026, DESC filed a materially revised request, abandoning its original actuarial basis and reducing the proposed increase to $0.00024 per kWh. (Ex. A at 42–46)

3. The New Order

On April 30, 2026, the Commission issued Order No. 2026-247, approving this entirely new, materially altered rate increase. (Ex. A at 54–55, 63–69)

Because Order No. 2026-247 approved a different surcharge based on new data, it constituted a new final judgment. Appellant's May 4 filing was the **first** petition for reconsideration directed at Order No. 2026-247. Respondent's attempt to categorize it as a successive petition is a deliberate mischaracterization designed to artificially truncate the appellate window.

X. IRREPARABLE HARM, INTENDED CONSOLIDATION, AND EXTRAORDINARY RELIEF

Appellant intends to seek consolidation of this appeal with forthcoming judicial reviews of related Commission dockets, including Appellate Case No. 2026-001436. The Commission has permitted Respondent to coordinate multiple off-docket rate adjustments—including the Pension Rider (2026-49-E), Fuel Clause (2026-2-E), and DSM (2026-11-E)—to take effect simultaneously in the May 2026 billing cycle.

By utilizing the § 58-27-870(F) "temporal loophole" to isolate these approvals, Respondent avoided public scrutiny, denied ratepayers a hearing, and engineered a de facto rate restructuring. This fragmentation concealed the cumulative financial impacts of the July-implemented base rate increase in Docket No. 2025-325-E. In that general rate case, the public was informed of an $11 million reduction in DSM recovery; simultaneously, in the isolated 2026-11-E docket, Respondent sought a $54 million increase.

If Respondent is permitted to dismiss this appeal and thereby bury evidence of the underlying procedural defects, the resulting harm to the public will be substantial and irreversible. The Commission has demonstrated a pattern of acting outside its lawful authority—bypassing statutory notice, adopting utility positions verbatim, and creating regulatory Catch-22s to silence ratepayer participation.

To preserve judicial economy and prevent further regulatory instability, Appellant respectfully submits that this Court should retain jurisdiction, deny Respondent's Motion to Dismiss, and permit consolidation with related matters.

XI. CONCLUSION

Respondent's Motion to Dismiss is structurally defective under SCACR Rule 240(c)(2) and legally abandoned under Rule 240(g). The motion relies on a fabricated timeline disproven by USPS postmarks and the Commission's own eService metadata. It further relies on a weaponized definition of standing designed to obscure the Commission's unlawful waiver of public notice.

For these reasons, Appellant respectfully requests that this Honorable Court **STRIKE** Respondent's Motion to Dismiss **WITH PREJUDICE**, or in the alternative, **DENY** the Motion, retain jurisdiction over this matter, and permit the appeal to proceed on the merits.

Respectfully submitted,

Thomas Michael Ragon Jr.
Pro Se Appellant
711 London Drive
Charleston, SC 29412
(843) 200-5447

August 15, 2026