

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

JAN 23 2014

APPEAL FROM
THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

S.C. Supreme Court

Appellate Case No. 2013-000529

South Carolina Energy Users Committee, Appellant-Respondent,

v.

South Carolina Electric & Gas Company,
Office of Regulatory Staff, and Pamela Greenlaw, Respondents,

and Sierra Club is Respondent-Appellant.

RETURN OF RESPONDENT
SOUTH CAROLINA ELECTRIC & GAS COMPANY
TO PETITION TO BECOME AN ACTIVE PARTY

In response to the petition of Joseph Wojcicki to become an active party in this appeal, respondent South Carolina Electric & Gas Company would show as follows:

1. Mr. Wojcicki moved to intervene in this matter before the Public Service Commission of South Carolina. Although he is not a customer of SCE&G, Mr. Wojcicki asserted standing based upon other considerations, such as his contention that, "in the event of a radiation leak or explosion, his property will be lost, he will have to evacuate, and he will never be allowed to use his home again." (PSC Order No. 2012-495, p. 1.)

2. The Commission denied Mr. Wojcicki's petition to intervene, concluding as follows:

The claims asserted by Mr. Wojcicki are both conjectural and hypothetical. Further, he has not stated a legally protected interest that is either (a) concrete and particularized or (b) actual or imminent. Accordingly, Mr. Wojcicki's Petition has failed to meet the legal standards for a Petition to Intervene in South Carolina, and we hold that Mr. Wojcicki's Petition to Intervene is denied.

The Commission's order denying the petition to intervene is attached to this return as an Exhibit. The Commission cited the following authorities on the subject of standing: *Smiley v. S.C. Dep't of Health & Env'tl. Control*, 374 S.C. 326, 329, 649 S.E.2d 31, 32-33 (2007) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992) (internal quotations and citations omitted)); and *Sea Pines Ass'n for the Protection of Wildlife, Inc. v. S.C. Dep't of Natural Resources*, 345 S.C. 594, 550 S.E.2d 287 (2001). Accord: *Carnival Corp. v. Historic Ansonborough Neighborhood Assoc.*, Opinion No. 27355 (S.C.Sup.Ct. filed January 22, 2014).

2. Mr. Wojcicki did not appeal the Commission's order denying his petition to intervene, which thereby became the law of the case. *Hudson v. Lancaster Convalescent Center*, Opinion No. 27348 (S.C.Sup.Ct. filed Jan. 8, 2014). Mr. Wojcicki cannot nullify the consequence of his failure to appeal the Commission's order by petitioning this Court "to become an active party" — *i.e.*, to intervene — as though he were new to the case.

3. The intervention in these proceedings by respondent Pamela Greenlaw shows that *pro se* litigants may effectively participate in matters of this kind, but *pro se* litigants are subject to the same rules of court as all other parties.

Respectfully submitted,

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by: 
Attorneys for Respondent
South Carolina Electric & Gas Company

January 22, 2014.

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2012-203-E - ORDER NO. 2012-495

JULY 13, 2012

IN RE: Petition of South Carolina Electric & Gas) ORDER DENYING
Company for Updates and Revisions to) PETITION TO
Schedules Related to the Construction of a) INTERVENE
Nuclear Base Load Generation Facility at)
Jenkinsville, South Carolina)

This matter comes before the Public Service Commission of South Carolina (“Commission”) on a Petition to Intervene submitted by Joseph Wojcicki. As to his standing to intervene, Mr. Wojcicki asserts that: (1) he is a shareholder with some financial interest in SCANA; (2) producers and users of electricity are connected to the Southeast electric grid and the proposed capital expenditures in this Docket will increase his rates; (3) the proposed capital expenditures will adversely affect impact his right to recreate on the rivers; (4) his property is within the Broad River, Saluda River and Congaree River basin; (5) the withdrawal of water by SCE&G’s reactors and the Duke Energy reactors will decrease volume needed for normal consumption, create unsafe living conditions, and cause fire protection to suffer; (6) part of the returned hot water from cooling systems will increase the overall temperature for rivers in Columbia area; (7) his property will be within such a close proximity to the site that the value of his home will be affected; and (8) in the event of a radiation leak or explosion, his property will be lost, he will have to evacuate, and he will never be allowed to use his home again. South Carolina Electric and Gas Company (“SCE&G”) opposes Mr. Wojcicki’s Petition

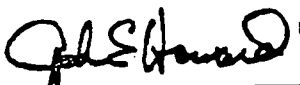
EXHIBIT

because he does not meet the criteria to intervene specified by South Carolina law. SCE&G emphasizes that he is not a customer, and that he also fails to state an actual or likely "invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical."¹

We conclude that SCE&G is correct. The claims asserted by Mr. Wojcicki are both conjectural and hypothetical. Further, he has not stated a legally protected interest that is either (a) concrete and particularized or (b) actual or imminent. Accordingly, Mr. Wojcicki's Petition has failed to meet the legal standards for a Petition to Intervene in South Carolina, and we hold that Mr. Wojcicki's Petition to Intervene is denied.

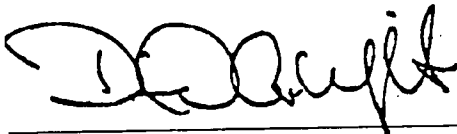
This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



John E. Howard, Chairman

ATTEST:



David A. Wright, Vice Chairman
(SEAL)

¹ *Smiley v. S. C. Dept. of Health & Envtl. Control*, 374 S.C. 326, 329, 649 S.E.2d 31, 32-33 (2007) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992)) (internal quotations and citations omitted); *Sea Pines Ass'n for the Protection of Wildlife, Inc. v. S.C. Dep't of Natural Resources*, 345 S.C. 594, 550 S.E.2d 287 (2001).

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South Carolina Electric & Gas Company,
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and Sierra Club is Respondent-Appellant.

CERTIFICATE OF SERVICE

I certify that I served a copy of the Return of respondent South Carolina Electric & Gas Company to the Petition of Joseph Wojcicki to Become an Active Party by first class mail, postage prepaid, addressed to the attorney for appellant-respondent South Carolina Energy Users Committee at his address of record, namely:

Scott Elliott, Esq.
Elliott & Elliott, P.A.
1505 Lady St.
Columbia, SC 29201

and addressed to the attorney for respondent-appellant Sierra Club at his address of record, namely:

Robert Guild, Esq.
Attorney at Law
314 Pall Mall
Columbia, SC 29201

and addressed to respondent Pamela Greenlaw at her address of record, namely:

Ms. Pamela Greenlaw
1001 Wotan Road
Columbia, SC 29229

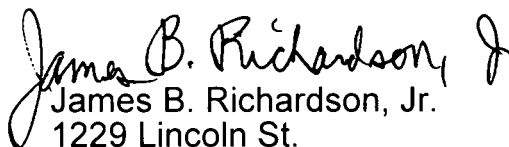
and addressed to the attorneys for respondent South Carolina Office of Regulatory Staff at their address of record, namely:

Florence P. Belser, Esq.
Nanette S. Edwards, Esq.
Shannon Bowyer Hudson, Esq.
Jeffrey M. Nelson, Esq.
South Carolina Office of Regulatory Staff
1401 Main St., Ste. 900
Columbia, SC 29201

and addressed to the petitioner at his address, namely

Mr. Joseph Wojcicki
820 East Steele Road
West Columbia, SC 29170-1125

all on January 22, 2014.


James B. Richardson, Jr.
1229 Lincoln St.
Columbia, SC 29201
(803) 799-9412

January 22, 2014.

Attorney for Respondent
South Carolina Electric & Gas Company