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IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Roger M. Young, Sr., Circuit Court Judge

Case No. 2013-CP-26-0488
Appellate Case No. 2014-001685

Horry Electric Cooperative, Inc.Appellant

vs.

South Carolina Public Service Authority and Southern Electric International, Inc.,
Defendants,

Of whom South Carolina Public Service Authority is the Respondent

**APPELLANT'S MOTION TO STRIKE A PORTION OF
RESPONDENT'S INITIAL BRIEF**

Appellant, by and through its undersigned counsel, hereby moves this Court to strike all matter and all argument based thereon which were not presented to the lower court. This motion is made upon the grounds that the Respondent has included matter in its Initial Brief that was not presented to the lower court in violation of Rule 210(c), SCACR. Rule 210(c) provides in part:

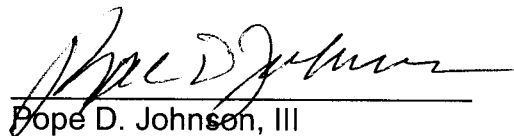
“(c) **Content.** The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. **The Record shall not,**

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[Signature]

however, include matter which was not presented to the lower court or tribunal.” (emphasis added).

The Appellant herewith submits its memorandum in support of the motion.

WHEREFORE, Appellant respectfully requests that all matter and argument that was not presented to the lower court be stricken from Respondent's Initial Brief and pursuant to Rule 240(b), SCACR, that all deadlines relating to the appeal be stayed pending the decision on the motion, which decision is needed prior to a reply brief being due so Appellants will know what it must reply to.



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Attorney for the Appellant

Columbia, South Carolina
December 30, 2014

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Horry Electric Cooperative, Inc.,Appellant

vs.

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Of whom South Carolina Public Service Authority is theRespondent

PROOF OF SERVICE

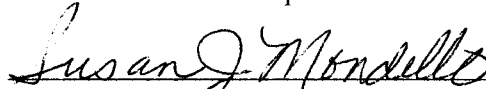
I, Susan J. Mondello, of Pope D. Johnson, III, Attorney at Law, hereby certify that I have served B. Rush Smith, III, attorney for Respondent, with the following pleadings by mailing a copy of same, postage prepaid and return address clearly indicated, to him at the following address this 30th day of December, 2014.

COUNSEL SERVED:

B. Rush Smith, III, Esquire
Nelson Mullins Riley & Scarborough, LLP
1320 Main Street, 17th Floor
Columbia, SC 29201

PLEADINGS:

Appellant's Motion to Strike a Portion of Respondent's Initial Brief
Memorandum in Support of Appellant's Motion to Strike a Portion of Respondent's Initial Brief


Susan J. Mondello

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December 30, 2014

(Via Hand Delivery)

Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

RE: Horry Electric Cooperative, Inc. v. South Carolina Public Service Authority
Appellate Case No. 2014-001685

Dear Ms. Kitchings:

Enclosed herewith are the original and seven (7) copies of Appellant's Motion to Strike a Portion of Respondent's Initial Brief and Memorandum in Support of Appellant's Motion to Strike a Portion of Respondent's Initial Brief regarding the above-referenced action. Also enclosed is a check in the amount of \$25.00 for the filing fee. Please file the original and six copies of the Motion and Memorandum and clock and return the additional copies to me.

With a copy of this letter to B. Rush Smith, III, attorney for the Respondent, I am serving a copy of the Motion and Memorandum upon him.

Sincerely,



Pope D. Johnson, III

PDJIII/sjm
Enclosures

cc: B. Rush Smith, III, Esquire