

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson III, Administrative Law Judge

Opinion No. 5274 (S.C. Ct. App. Filed October 8, 2014)
Case No. 10-ALJ-17-0270-CC

Appellate Case No. 2014-002736

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APR 20 2015

S.C. Supreme Court

Duke Energy Corporation..... Petitioner,
v.
South Carolina Department of Revenue Respondent.

MOTION FOR EXTENSION TO FILE BRIEF ON THE MERITS

Pursuant to this Court's April 9, 2015 Order granting certiorari, as well as Rule 242 of the South Carolina Appellate Court Rules (SCACR) and this Court's July 16, 2014 Order regarding Extensions in Cases Seeking a Petition for a Writ of Certiorari, the Petitioner hereby moves for a twenty (20) day extension of time to file its appendix and brief under Rule 242(i), SCACR. Counsel for Respondent has consented to this extension request. Petitioner has not previously requested an extension pursuant to Rule 242, SCACR, in this case.

The grounds of this Motion are as follows:

1. Question II, for which this Court has granted certiorari, involves separate and independent sub-questions involving interpretations of complex tax statutes, case law, regulations, and other administrative guidance that will require significant briefing. Many involve novel issues not previously reviewed or ruled upon by this Court.

2. While these issues have not been resolved in South Carolina, there are a number of courts addressing these issues across the country (e.g., *Microsoft Corporation v. Franchise Tax Board*, 39 Cal. 4th 750, 139 P.3d 1169 (2006)), and Petitioner requests additional time to research and identify those cases, and to provide this Court with the latest and most current treatment of those issues.

3. This large and complex case both involves a significant amount at issue and has an unusually extensive appellate record, spanning 24 years and consisting of eighteen volumes containing more than 8,000 pages.

4. Undersigned counsel certifies that this extension is not requested for purposes of delay but is necessary to adequately research and prepare the Brief required under Rule 242(i), SCACR.

WHEREFORE, Petitioner respectfully requests a twenty (20) day extension for filing its brief on the merits pursuant to Rule 242(i), SCACR.

Respectfully submitted,



Burnet R. Maybank III
Tanya A. Gee
NEXSEN PRUET, LLC
1230 Main Street, Suite 700
PO Drawer 2426 (29202)
Columbia, SC 29201
(803) 771-8900

April 20, 2015
Columbia, South Carolina

Eric S. Tresh, *Pro Hac Vice*
Maria M. Todorova, *Pro Hac Vice*
SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street, NE, Suite 2300
Atlanta, GA 30309
(404) 853-8806

Jeffrey A. Friedman, *Pro Hac Vice*
SUTHERLAND ASBILL & BRENNAN LLP
700 Sixth St NW #700
Washington, DC 20001
(202) 383-0718

Attorneys for Petitioner Duke Energy Corporation

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

APR 20 2015

Ralph K. Anderson III, Administrative Law Judge

S.C. Supreme Court

Appellate Case No. 2014-002736

Duke Energy Corporation..... Appellant,

v.

South Carolina Department of Revenue..... Respondent.

PROOF OF SERVICE

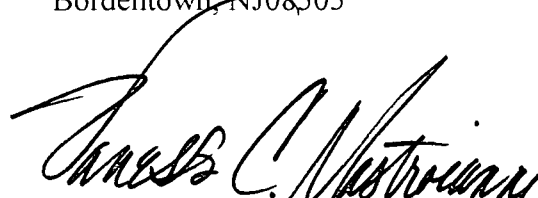
This is to certify that the foregoing Appellant's Motion for Extension to File Brief on the Merits was sent via US Mail addressed as follows this 20th day of April, 2015:

Milton G. Kimpson
S.C. Department of Revenue
Office of General Counsel for Litigation
Post Office Box 12265
Columbia, SC 29211

John M. S. Hoefer
Tracey C. Green
John W. Roberts
Willoughby & Hoefer, P.A.
999 Peachtree Street, NE
Post Office Box 8416
Columbia, SC 29202

The Honorable Jenny Abbott Kitchings
Clerk of Court
S1015 Sumter Street South Carolina Court
of Appeals
Columbia, SC 29201

Harry A. Hancock, Esq.
New Jersey Treasury
Department of Taxation
229 Spring Street
Bordentown, NJ 08505


Vanessa C. Mastroianni

Burnet R. Maybank, III
Member
Admitted in SC

April 20, 2015

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S.C. Supreme Court

VIA HAND DELIVERY

The Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
1231 Gervais Street
Columbia, SC 29201

Re: *Duke Energy Corp. v. S.C. Dep't of Revenue*
Docket No.: 10-ALJ-17-0270-CC
Appellate Case No. 2014-002736

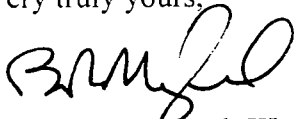
Dear Mr. Shearouse:

Enclosed for filing are the original and seven (7) copies of the Motion for Extension to File Brief on the Merits in the above matter along with a Proof of Service. Please return a clocked-in copy of each to us via our courier.

Also enclosed is a check in the amount of \$25.00 in payment of the filing fee.

Thank you for your assistance in this matter.

Very truly yours,



Burnet R. Maybank III

BRM/vcm

Enclosures

cc: The Honorable Jenny Abbott Kitchings
Milton G. Kimpson
John M.S. Hoefler
Tracey C. Green
John W. Roberts
Harry A. Hancock

- Charleston
- Charlotte
- Columbia**
- Greensboro
- Greenville
- Hilton Head
- Myrtle Beach
- Raleigh



The Supreme Court of South Carolina

Burnet Rhett Maybank, III
PO Drawer 2426
Columbia SC 29202-2426

04/21/2015

RECEIPT #75742

Case No:	2014-002736
Case Short Title:	Duke Energy v. SCDOR
Event:	Motion - Extension of Time (1st)
Fee Type:	Motion Fee
Amount:	\$25.00
Payment Type:	Check
Reference No:	447131
Check/Money Order Date:	04/20/2015
Comments:	