

April 18, 2016

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APR 20 2016

SC Court of Appeals

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

Re: Commissioners of Public Works of the City of Laurens, South Carolina, also Known as the  
Laurens Commission of Public Works v. City of Fountain Inn, South Carolina  
C.A. No.: 2011-CP-30-309  
Appellate Case No. 2015-001894  
HSB File No.: 29772.0031

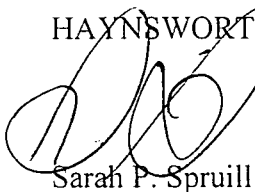
Dear Mr. Shearouse:

Enclosed for filing are the original and seven copies of the *Consent Motion to Certify and Transfer Appeal from the Court of Appeals and for Expedited Consideration, with Incorporated Memorandum in Support*, along with the proof of service for the same. Please file the original and return a clocked copy to me in the enclosed self-addressed stamped envelope.

Should you have any questions, please feel free to contact me.

Sincerely yours,

HAYNSWORTH SINKLER BOYD, P.A.



Sarah P. Spruill

SPS:jmb  
Enclosures

cc: ✓ The Honorable Jenny Abbott Kitchings (via U.S. Mail)  
Bernie W. Ellis (via U.S. Mail)  
Robert L. Widener (via U.S. Mail)  
David W. Holmes (via e-mail only [davidholmes@holmes-law.com](mailto:davidholmes@holmes-law.com))

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APR 20 2016

**SC Court of Appeals**

APPEAL FROM LAURENS COUNTY  
Court of Common Pleas

J. Cordell Maddox, Jr., Circuit Court Judge

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C.A. No.: 2011-CP-30-309

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Commissioners of Public Works of City of  
Laurens, South Carolina, also Known as the Laurens  
Commission of Public Works, .....Respondent,

v.

City of Fountain Inn, South Carolina, .....Appellant.

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**CONSENT MOTION TO CERTIFY AND TRANSFER APPEAL  
FROM THE COURT OF APPEALS AND FOR EXPEDITED CONSIDERATION,  
WITH INCORPORATED MEMORANDUM IN SUPPORT**

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Pursuant to Rule 204(b), SCACR and with the consent of the Respondent Commissioners of Public Works of City of Laurens, South Carolina, also Known as the Laurens Commission of Public Works (“LCPW”), the Appellant City of Fountain Inn (“Fountain Inn”) hereby moves this Court to certify this appeal for review, thereby transferring jurisdiction from the Court of Appeals to this Court.<sup>1</sup>

### ARGUMENT

LCPW<sup>2</sup> brought this action, seeking a determination of who may provide natural gas to certain industrial customers that are located outside the city limits of both Laurens and Fountain Inn and an injunction prohibiting Fountain Inn from serving those customers. Fountain Inn denied that LCPW had any rights as a matter of statutory law or contract to be the dedicated service provider for these customers. The trial judge issued an order finding that LCPW had acquired “designated service area” outside its boundaries and that the City “may not provide natural gas service in that area without the permission of LCPW.” Fountain Inn has appealed that order, and the appeal presents the Court with an opportunity to squarely address the application of S.C. Code Ann. § 5-7-60 with respect to two municipal providers and their ability to serve customers located outside their respective city limits.

As required by Rule 204(b), this appeal presents both “an issue of significant public interest” and “a legal principle of major importance.” As reflected in the attached briefs, the parties have raised issues of significant public interest and a legal principle of major importance with respect to the ability of municipalities to provide services outside

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<sup>1</sup> This appeal has been fully briefed and is ready for disposition. Copies of the final briefs are attached for consideration in conjunction with this motion.

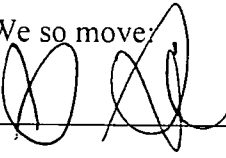
<sup>2</sup> LCPW is an entity that provides utility services for the City of Laurens. It is not an independent special purpose district.

their municipal boundaries. Given the importance of the question presented and its potential to provide guidance to municipal service providers throughout the state as they seek to expand those services beyond their municipal limits, this appeal warrants prompt consideration and final disposition by this Court.

The same reasons support expedited consideration. To that end, the parties have consulted and, based on current calendars, they can generally be available for argument with the exception of the following dates: April 28-May5, May 12-13, May 20-23, May 31-June 9, August 1-5, and August 23.

As set forth above, the parties believe transfer is in the best interest of the parties and the citizens of South Carolina. A speedy and final order in this matter would help ease the growing pains faced by municipalities across the state as they seek to provide services outside their limits.

Respectfully submitted,

We so move:  


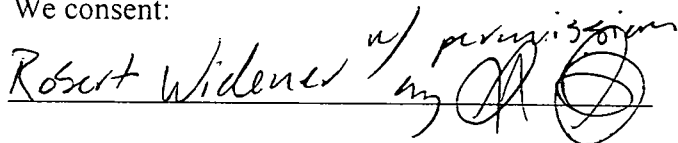
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712 North Main Street  
Greenville, SC 29609  
Telephone: 864.271.2381

Attorneys for Appellant  
City of Fountain Inn, South Carolina

We consent:

*Robert Widener w/ permission*  


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MCNAIR LAW FIRM, P.A.  
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Greenville, SC 29602

Robert L. Widener  
MCNAIR LAW FIRM, P.A.  
Suite 1800, 1221 Main Street  
P.O. Box 11390  
Columbia, SC 29211

Attorneys for Respondent Commissioners of Public  
Works of City of Laurens, South Carolina, also  
Known as the Laurens Commission of Public  
Works

April 15, 2016

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM LAURENS COUNTY  
Court of Common Pleas

J. Cordell Maddox, Jr., Circuit Court Judge

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C.A. No.: 2011-CP-30-309

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SC Court of Appeals

Commissioners of Public Works of City of  
Laurens, South Carolina, also Known as the Laurens  
Commission of Public Works, ..... Respondent,

v.

City of Fountain Inn, South Carolina, ..... Appellant.

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**PROOF OF SERVICE**

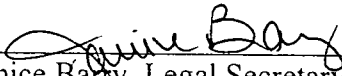
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I, the undersigned employee of Haynsworth Sinkler Boyd, P.A., do hereby certify that I have this 18th day of April, 2016, caused the foregoing *Consent Motion to Certify and Transfer Appeal from the Court of Appeals and for Expedited Consideration, with Incorporated Memorandum in Support* to be served via U.S. mail, postage prepaid on counsel of record at the addresses shown below:

Bernie W. Ellis  
McNair Law Firm, P.A.  
P.O. Box 447  
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Robert L. Widener  
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Columbia, SC 29211

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\_\_\_\_\_  
Janice Barry, Legal Secretary  
Haynsworth Sinkler Boyd, P.A.  
P.O. Box 2048  
Greenville, SC 29602  
864.240.3223

Haynsworth  
Sinkler Boyd, P.A.

ATTORNEYS AND COUNSELORS AT LAW

POST OFFICE BOX 2048  
GREENVILLE, SOUTH CAROLINA 29602-2048

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



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APR 20 2016  
SC Court of Appeals