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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

HONORABLE SHIRLEY C. ROBINSON, ADMINISTRATIVE LAW JUDGE

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Case No. 14-ALJ-17-0285-CC  
Appellant Case No. 2016-001642

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Dish DBS Corporation, f/k/a EchoStar, DBS Corp., and Affiliates,.....Appellant,

v.

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

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RESPONDENT'S DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL

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Pursuant to Rule 209 of the South Carolina Appellate Court Rules, Respondent, South Carolina Department of Revenue, respectfully requests that the following items be included in the Record on Appeal:

**ORDERS**

1. Amended Final Order from the Administrative Law Court, dated July 11, 2016
2. Final Order from the Administrative Law Court, dated May 20, 2016
3. Order Denying Motion in Limine to Exclude Stipulation and Court Transcripts, dated April 21, 2015
4. Order Denying Motion in Limine to Strike Proposed Expert Witness, dated March 25, 2015
5. Order Denying Cross Motions for Summary Judgment, dated February 10, 2015

### **RESPONSE TO MOTIONS**

6. Respondent's response to Dish DBS's Motion for Reconsideration under ALC Rule 29(D) and/or to Alter or Amend under SCRCF Rule 59(c), filed June 10, 2016
7. Respondent's response in opposition to Dish DBS's Motion in Limine to Exclude Stipulation and Court Transcripts, filed March 23, 2015
8. Respondent's response to Dish DBS's Motion in Limine to Strike Proposed Expert Witness from South Carolina Department of Revenue's Witness List filed March 5, 2015
9. Respondent's Reply in Opposition to Dish DBS's Motion for Summary Judgment and Cross Motion for Summary Judgment, filed January 27, 2015

### **TRANSCRIPTS**

10. Hearing Transcript, September 23-25, 2015


### **EXHIBITS AND OTHER MATERIALS OR DOCUMENTS**

11. Petitioner's Exhibits 1-12: Dish DBS's Original and Amended South Carolina Corporate Returns for the tax periods ended December 31, 2005 through December 31, 2010
12. Petitioner's Exhibit 25: Dish DBS 2010 Form 10-K, including attached audited financial statements
13. Respondent's Exhibit 1: Summary Sheet of Tax Returns
14. Respondent's Exhibit 2: Audit Report
15. Respondent's Exhibit 3: US Census Data
16. Respondent's Exhibit 4: Department Determination dated May 13, 2014
17. Respondent's Exhibit 5: CV of Dr. Glenn W. Harrison
18. Respondent's Exhibit 6: CV of Prof. John A. Swain
19. Respondent's Exhibit 7: BNA, Tax Management Multistate Tax Portfolios: South Carolina Corporate Income Tax: (S-158,2280:0510d – 2280:0510e)
20. Respondent's Exhibit 8: Uniform Division of Income for Tax Purposes Act (UDITPA)
21. Respondent's Exhibit 9: Excerpt from the Department's Corporate Tax Manual
22. Respondent's Exhibit 10: I-D-214 Re: Income Tax (April 15, 1976)
23. Respondent's Exhibit 11: Index of Record Submitted in Lockwood Greene

24. Respondent's Exhibit 12: Minutes of Meeting of SCTC on Aug. 24, 1977 and adopted Rule of Construction
25. Respondent's Exhibit 13: Dish DBS subscriber contract
26. Respondent's Exhibit 14: Dish DBS's Request for Contested Case Hearing
27. Appellant's Notice of Appeal dated August 8, 2016
28. Amended Final Order and Decision from the Administrative Law Court in DIRECTV, Inc. & Subsidiaries v. S.C. Dep't of Rev., Docket No. 14-ALJ-17-0158-CC (Appellate Case No. 2015-01509) (C.J. Anderson), dated June 12, 2015

The undersigned counsel hereby certifies, pursuant to Rule 209(c) of the South Carolina Appellate Court Rules that this Designation contains no matter that is irrelevant to the appeal.

December 9, 2016

  
\_\_\_\_\_  
Nicole M. Wooten (Bar No. 73594)  
Counsel for Litigation  
William J. Condon, Jr. (Bar No. 12632)  
Managing Counsel for Litigation  
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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Honorable Shirley C. Robinson, Administrative Law Judge

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CASE NO. 14-ALJ-17-0285-CC  
Appellant Case No. 2016-001642

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Dish DBS Corporation f/k/a EchoStar, DBS Corp. and Affiliates.....Appellant,

v.

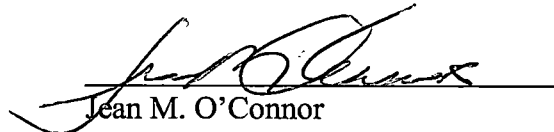
South Carolina Department of Revenue.....Respondent.

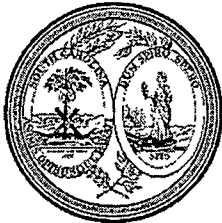
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**PROOF OF SERVICE**

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I, Jean M. O'Connor, hereby certify that I have caused to be mailed a copy of the South Carolina Department of Revenue's Initial Brief and Designation of Matter regarding the above-referenced case, by depositing the same in the United States Mail, postage prepaid, on December 9, 2016, addressed to the attorneys of record, Burnet R. Maybank, III, Esquire and James P. Rourke, Esquire, Nexsen Pruet, LLC, PO Drawer 2426, Columbia, SC 29202-2426, and by hand delivery to the Court of Appeals, 1220 Senate Street, Columbia, SC 29201.

  
Jean M. O'Connor



STATE OF SOUTH CAROLINA  
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210  
P.O. Box 12265, Columbia, South Carolina 29211-9979

December 9, 2016

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
SC Court of Appeals  
1220 Senate Street (29201)  
PO Box 11629  
Columbia, SC 29211

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**SC Court of Appeals**

Re: Dish DBS Corporation f/k/a EchoStar, DBS Corp. v.  
South Carolina Department of Revenue  
Appellate Case No. 2016-001642  
ALC Docket No. 14-ALJ-17-0285-CC

Dear Ms. Kitchings:

Enclosed please find the originals and one copy of the following documents in the above-referenced matter:

1. Initial Brief of Respondent;
2. Respondent's Designation of Matter to be Included in the Record on Appeal; and
3. Proof of Service.

By copy of this letter, we are serving these documents on counsel for Appellant Dish DBS Corporation f/k/a EchoStar, DBS Corp. If you have any questions, please do not hesitate to contact me.

Yours truly,

OFFICE OF GENERAL COUNSEL FOR LITIGATION

A handwritten signature in cursive script, appearing to read "Nicole M. Wooten".

Nicole M. Wooten  
Counsel for Litigation  
803-898-1826  
[Nicole.Wooten@dor.sc.gov](mailto:Nicole.Wooten@dor.sc.gov)

Enclosures

cc: Burnet R. Maybank, III, Esq. and James P. Rourke, Esq.