

TIENCKEN CONWAY, LLC

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February 9, 2017

Office of the Clerk
Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

RECEIVED

FEB 13 2017

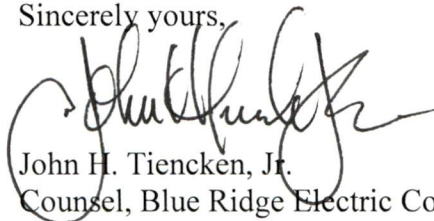
S.C. SUPREME COURT

RE: *Blue Ridge Electric Cooperative, Inc. v. Gresham*
C/A#s 2016-MO-032; 2015-001836; 2008-CP-23-5245

To Whom It May Concern:

Enclosed for the Court is a courtesy copy of appellant Blue Ridge Electric Cooperative, Inc.'s response in the above-captioned matter to correspondence of Kathleen J. Gresham dated January 16, 2017. Blue Ridge enclosed with its correspondence to Ms. Gresham payment of \$318.77, constituting costs awarded to Ms. Gresham by this Court's order of February 8, 2017, plus the damages awarded by the trial jury with statutory interest accrued during the pendency of appeal. With kindest regards, I remain

Sincerely yours,



John H. Tiencken, Jr.
Counsel, Blue Ridge Electric Cooperative, Inc.

COPY

TIENCKEN CONWAY, LLC

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February 9, 2017

Kathleen J. Gresham
1524 Highway 11
Landrum, SC 29356

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S.C. SUPREME COURT

RE: Your correspondence dated January 16, 2017
Blue Ridge Electric Cooperative, Inc. v. Gresham
C/A#s 2016-MO-032; 2015-001836; 2008-CP-23-5245

Dear Ms. Gresham:

Our firm serves as the outside general counsel to the Blue Ridge Electric Cooperative, Inc. ("Blue Ridge") Board of Trustees. We are in receipt of your letter dated January 16, 2016 addressed to Blue Ridge's counsel in the above-captioned matter, and we have been asked by Blue Ridge to respond. Your correspondence makes a number of requests, and I will attempt to address each in turn.

First, allow me to assuage any concerns you might have of "retaliation" as expressed in your letter. Although you and Blue Ridge clearly had disagreements and those disagreements led to a lengthy litigation, Blue Ridge's decision to file its claim against you was not born of any animus against you, and no such animus exists in the wake of the claim's final disposition. And, as it would be with any legal action Blue Ridge undertakes, Blue Ridge's Board has been apprised of the outcome of the litigation and appeals regarding your matter.

Second, we are researching your request regarding a breakdown of legal fees related to your matter. In the interim, I would direct you to Blue Ridge's most recent annual report for operating year 2015, available at http://www.blueridge.coop/assets/2015_financial_statement.pdf, for information regarding revenues and expenses of the cooperative. Prior years' reports are available on request.

Third, regarding your inquiry related to patronage capital for cooperative members, please see the following general statement regarding Blue Ridge's capital credit refunds, the rules for which are set forth by S.C. Code Ann. § 33-49-460: http://www.blueridge.coop/about/capital_credits.html. Information regarding your membership account and refund history is available upon request.

Fourth, enclosed is a check payable to you in the amount of \$318.77, being the sum of (1) \$318.75 for awarded court costs per the Supreme Court's February 8, 2017 order; (2) \$0.01, representing the jury's award for damages; and (3) \$0.01, being the accrued statutory interest on the damage award during the pendency of appeal.

Finally, you state the following in your letter: "As your power support pole and guy wires are still trespassing on my property, this is courteous notice that such must be moved straightaway and the area on which they encroached, must be cleaned up and restored pristinely."

As I understand from reviewing the file, your trespass counterclaim in Civil Action No. 2008-CP-23-5245 was related to the siting of Blue Ridge's pole and guy wire pursuant to SCDOT Encroachment Permit No.

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Attorneys At Law

23-07-50749. Although I have been unable to ascertain the exact basis for your trespass claim because of gaps in the trial court transcript, it appears that whatever condition existed that prompted the jury to award judgment for trespass was cured between 2008 when your counterclaim was filed and 2013 when SCDOT issued Encroachment Permit No. 23-13-159779 for the pole as currently sited.

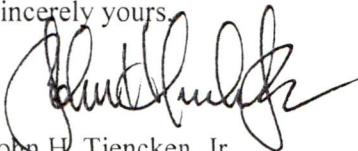
Attached to that 2013 permit is an as-built/location survey prepared by SCDOT surveyor Robert A. Foster (PLS# 11313). This survey verifies that, as of the date of the permit's issuance, the pole and guy wire you have requested be removed are, in fact, both located within the SCDOT right-of-way. Given that electrical utilities in South Carolina have a statutory right to locate facilities within SCDOT rights-of-way that has been consistently affirmed by our Supreme Court for nearly eight decades, it would appear that the judgment rendered by the trial court and subsequently affirmed by the Court of Appeals has been mooted and Blue Ridge is under no obligation to move the pole/guy wire from its current location.

However, it may be that I have misapprehended Blue Ridge's obligations arising out of the various trial and appellate court rulings in this matter due to my very late involvement with the file. If you believe that to be the case, please provide me with a courtesy copy of the court order referencing removal of the pole/guy wire as you demand, and I will counsel my client accordingly.

Alternatively, if the basis of your demand is now grounded in a belief that SCDOT did not have the authority to grant the encroachment permit for the pole/guy wire within its right-of-way on your property, it would appear that your dispute is with SCDOT and not Blue Ridge.

We will look forward to hearing from you and will provide follow-up on the item indicated above.

Sincerely yours,



John H. Tiencken, Jr.
Counsel for Blue Ridge Electric Cooperative, Inc.

cc: Steve Hamm
Larry Brandt
Office of the Clerk of the Supreme Court of South Carolina

Enclosure: as stated

TIENCKEN CONWAY, LLC
234 SEVEN FARMS DRIVE, SUITE 114
DANIEL ISLAND, SC 29492

63-1623/670

DATE February 10, 2017

 CHECK ARMOR

PAY TO THE ORDER OF KATHLEEN J. BRUSHAM \$ 318⁷⁷

Three hundred eighteen and 77/100 DOLLARS 

Security Features Details on Back.



FOR 2016-MO-032; 2015-001836; 2008-CP-23-5245

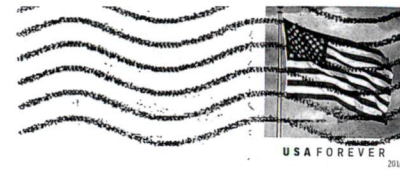
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