

RECEIVED

JUN 17 2019

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM
THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

Docket No. 2018-2-E
Appellate Case No. 2018-001165

South Carolina Coastal Conservation League
And Southern Alliance for Clean Energy, Appellant,

v.

South Carolina Public Service Commission,
Dominion Energy South Carolina, Inc., f/k/a/ South
Carolina Electric & Gas Company,
CMC Steel South Carolina, South Carolina
Energy Users Committee, South Carolina Solar
Business Alliance, LLC, Southern Current, LLC,
and South Carolina Office of Regulatory Staff, Respondents,

and,

South Carolina Solar Business Alliance, LLC, Appellant,

v.

South Carolina Coastal Conservation League and South
Alliance for Clean Energy, South Carolina Public Service
Commission, Dominion Energy South Carolina, Inc., f/k/a/ South
Carolina Electric & Gas Company, CMC Steel South Carolina,
South Carolina Energy Users Committee,
Southern Current, LLC, and
South Carolina Office of Regulatory Staff, of whom Dominion
Energy South Carolina, Inc., f/k/a South Carolina Electric & Gas
Company, and South Carolina Office of Regulatory Staff, are Respondents

**MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF OF THE SOUTH
CAROLINA OFFICE OF REGULATORY STAFF**

Pursuant to Rule 213, SCACR, the South Carolina Office of Regulatory Staff (ORS) hereby moves for leave to file an *amicus curiae* brief in this action. Among other issues, this case addresses a utility's retention of its initial entitlement to a presumption of reasonableness and the burden that the Public Service Commission of South Carolina (the "Commission") places on parties that appear before it. These are issues of substantial concern to ORS. This brief addresses the question raised by various parties appearing before the Commission in Commission Docket No. 2018-2-E, concerning the impact of shifting the presumptive burden from an applicant to the respondent.

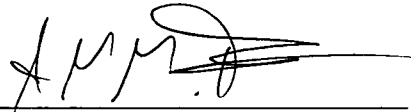
As more fully stated in the brief filed with this Motion, ORS respectfully asserts that the Commission erred in its Order No. 2018-322(A) (the "Order") by improperly shifting the burden of proof. A utility is entitled to a presumption of reasonableness; however, once that presumption is reasonably challenged, it becomes incumbent upon the utility to substantiate the expenses for which it is seeking, or will seek, recovery. The Commission's Order requires not only a reasonable challenge before the utility must substantiate the expenses for which it will seek recovery, but also a viable alternative to the utility's position.

ORS is the South Carolina agency tasked with representing the public interest of South Carolina before the Commission. In representing the public interest, ORS must consider the concerns of the using and consuming public with respect to public utility services, regardless of the class of customer, and preservation of continued investment in and maintenance of utility facilities so as to provide reliable and high-quality utility services. The ORS is automatically a

party to all matters before the Commission and, unless it chooses not to participate, is statutorily obligated to advocate for the public interest. ORS believes that in order to effectively represent the public interest and for a just result to be reached, the Commission must consistently apply the law in a fair and uniform standard. ORS's ability to effectively represent the public interest before the Commission and make informed decisions is based almost entirely upon its confidence that the Commission will not act arbitrarily and will fairly and uniformly apply the law.

ORS respectfully requests that the Court grant leave to present an *amicus curiae* brief. A copy of the *amicus curiae* brief is attached hereto and is being conditionally filed with this Motion in accordance with Rule 213, SCACR.

Respectfully submitted,



Andrew M. Bateman (S.C. Bar # 101114)
Jenny R. Pittman (S.C. Bar # 101913)
South Carolina Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201
(803) 737-8440 (telephone)
(803) 737-0794 (telephone)
(803) 737-0895 (facsimile)
abateman@ors.sc.gov
jpittman@ors.sc.gov

ATTORNEYS FOR RESPONDENT
SOUTH CAROLINA OFFICE OF
REGULATORY STAFF

June 17, 2019

Columbia, South Carolina