



# The Supreme Court of South Carolina

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November 19, 2019

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Re: Duke Energy Progress, LLC v. Office of Regulatory Staff  
Appellate Case No. 2019-001904

Dear Counsel:

Upon review of the Notice of Appeal and accompanying proof of service certificate it appears there are some attorneys who may have not been admitted to practice *pro hac vice* in this case. If they have been admitted in this action before the Public Service Commission, they will need to furnish a copy of the order granting the admission *pro hac vice*.

Enclosed you will find a copy of Rule 404, SCACR which outlines the procedure for insuring these attorneys are properly admitted *pro hac vice* before they can actively participate in this case.

Please feel free to contact this office if you have any questions or desire additional information.

Very truly yours,

A handwritten signature in cursive script that reads "Brenda J. Shealy".

CHIEF DEPUTY CLERK

**RULE 404****ADMISSION PRO HAC VICE AND APPEARANCES BY NON-SOUTH CAROLINA LAWYERS IN ARBITRATION, MEDIATION OR OTHER ALTERNATIVE DISPUTE RESOLUTION PROCEEDINGS IN SOUTH CAROLINA**

**(a) Motion for Admission Pro Hac Vice; Tribunal Defined.** Upon written motion, an attorney who is not admitted to practice law in South Carolina and who is admitted and authorized to practice law in the highest court of another state or the District of Columbia may be admitted pro hac vice in any action or proceeding before a tribunal of this state. Except as provided by Rule 244(d), a person may not be admitted pro hac vice unless a regular member of the South Carolina Bar in good standing is associated as attorney of record with that person. The motion shall be filed with a completed application form specified in (d) below (including the certificate of good standing). For the purpose of this rule, a "tribunal" includes any court of this state, the South Carolina Administrative Law Court and any South Carolina agency authorized to hear and determine contested cases as defined under S.C. Code Ann. § 1-23-310.

**(b) Action on Motion.** The tribunal in its discretion may hold a hearing on the motion and shall enter an order granting or denying the motion. The motion, however, shall not be considered by the tribunal until the certification by the Clerk of the Supreme Court under (e) below is received. If the motion is denied, the tribunal shall state its reasons.

**(c) Continuing Effect.** If the motion to appear pro hac vice is granted, the authority to appear pro hac vice shall continue through the remainder of the action or proceeding, including any appellate proceedings, unless permission is withdrawn as provided in (h) below. When an action or proceeding moves from one tribunal to another, the attorney admitted pro hac vice shall immediately provide the new tribunal with a copy of the order granting the pro hac vice admission, and with the name and South Carolina Bar Number of the associated regular member of the South Carolina Bar.

**(d) Application for Admission Pro Hac Vice.** The Application for Admission Pro Hac Vice shall be on a form approved by the Supreme Court and shall contain the following information:

- (1) the applicant's residence and office addresses;
- (2) the state and federal courts to which the applicant has been admitted to practice and the dates of admission;
- (3) whether the applicant is a member in good standing in those courts, and a certificate of good standing of the Bar of the highest court of the state or the District of Columbia where the applicant regularly practices law;
- (4) whether the applicant is currently suspended or disbarred in any court, and if so, a description of the circumstances under which the suspension or disbarment occurred;
- (5) whether the applicant has been formally notified of any complaints pending before a disciplinary agency in any jurisdiction and, if so, provide a detailed description of the nature and status of any pending disciplinary complaints;
- (6) an identification of all law firms with which the applicant is associated and a description of all the applicant's pending pro hac vice appearances in South Carolina to include the name and address of the tribunal;
- (7) the names of each case or proceeding in South Carolina in which the applicant has filed an application to appear as counsel pro hac vice, the name and address of the tribunal, the date of each application, and whether it was granted;
- (8) the name, address, telephone number, and South Carolina Bar Number of the regular member(s) of the South Carolina Bar who is (are) the attorney(s) of record; and
- (9) an affirmation that the applicant will comply with the applicable statutes, law and procedural rules of the State of South Carolina; be familiar with and comply with the South Carolina Rules of Professional Conduct; and submit to the jurisdiction of the South Carolina courts and the South Carolina disciplinary process.

The attorney shall be under a continuing duty to promptly update the information provided in the application until the tribunal has ruled on the motion for admission pro hac vice. Further, if the motion is granted, the attorney shall be under a continuing duty to promptly update the information provided in the application as long as the attorney continues to appear pro hac vice in the action or proceeding. Any updated information shall be provided to both the tribunal that granted the motion and to the tribunal in which the action or proceeding is pending.

**(e) Admission Fee and Certification; Record of Appearances Pro Hac Vice.** Prior to making a motion to be admitted pro hac vice, a copy of the application shall be submitted to the South Carolina Supreme Court Office of Bar Admissions along with an admission fee of \$250. The fee shall not be required for pro hac vice admissions sought under Rule 244(d),

SCACR. Upon receipt of the application, the Clerk of the South Carolina Supreme Court shall certify to the tribunal in which a pro hac vice appearance has been requested that the application form and fee, if applicable, has been received. The Office of Bar Admissions shall maintain a record of all pro hac vice applications as a public record.

**(f) Prohibitions on Admission Pro Hac Vice.** An attorney may not appear pro hac vice if the attorney is regularly employed in South Carolina, or is regularly engaged in the practice of law or in substantial business or professional activities in South Carolina, unless the attorney has filed an application for admission under Rule 402, SCACR. Notwithstanding any other provision herein, an attorney who files more than six applications for admission pro hac vice in a calendar year, including applications for purposes of Rule 404(k), is considered regularly engaged in the practice of law in South Carolina.

**(g) Conduct of Attorney Appearing Pro Hac Vice.** An attorney appearing pro hac vice is subject to the jurisdiction of the South Carolina courts with respect to South Carolina law governing the conduct of attorneys to the same extent as an attorney admitted to practice law in this state. The attorney shall comply with the South Carolina Rules of Professional Conduct and is subject to the disciplinary jurisdiction of the Supreme Court of South Carolina.

**(h) Withdrawal of Permission.** The tribunal in which an attorney is appearing pro hac vice or the Supreme Court of South Carolina may withdraw permission for the attorney to appear pro hac vice based on a violation of South Carolina law; a violation of the South Carolina Rules of Professional Conduct; a violation of a court order or the rules of the tribunal; the submission of an Application for Admission Pro Hac Vice which contains false, misleading or incomplete information; the pendency of a lawyer disciplinary proceeding or the imposition of a suspension, disbarment or other lawyer disciplinary sanction in this or another jurisdiction; the withdrawal or suspension of permission to appear pro hac vice in this or another jurisdiction; the failure to have associated South Carolina counsel if required; or other good cause.

**(i) Responsibilities of Attorney of Record for Attorney Appearing Pro Hac Vice.** The South Carolina attorney of record shall at all times be prepared to go forward with the case; sign all papers subsequently filed; and attend all subsequent proceedings in the matter, unless the tribunal specifically excuses the South Carolina attorney of record from attendance.

**(j) Non-South Carolina Lawyers Appearing in an Arbitration, Mediation or Other Alternative Dispute Resolution Proceeding in South Carolina.** Pursuant to Rule 5.5(c)(3) of the Rules of Professional Conduct, Rule 407, SCACR, a lawyer admitted to practice law in another jurisdiction may perform legal services on a temporary basis in this jurisdiction if those services are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's pre-existing representation of a client in a jurisdiction in which the lawyer is admitted to practice.

**(k) Limitations on Provision of Legal Services Pursuant to Rule 5.5(c)(3).** A lawyer who is not admitted to practice in South Carolina who seeks to provide legal services pursuant to Rule 5.5(c)(3) in more than three matters in a calendar year shall be presumed to be providing legal services on a regular, not temporary, basis.

**(l) Fee; Record of Provision of Legal Services Pursuant to Rule 5.5(c)(3).** For each matter in which a lawyer seeks to provide legal services pursuant to Rule 5.5(c)(3), the lawyer shall file a verified statement with the South Carolina Supreme Court Office of Bar Admissions stating that the lawyer has not filed more than three statements pursuant to this rule in a 365-day period. The statement shall be accompanied by a \$250 fee and shall be served on opposing counsel, if known. If opposing counsel is not known at the time the verified statement is filed, the statement shall be filed on opposing counsel within ten days of learning the identity of opposing counsel.

Last amended by Order dated May 14, 2014.