

STATE OF SOUTH CAROLINA  
COUNTY OF BERKELEY

City of Goose Creek,

Plaintiff,

vs.

South Carolina Public Service Authority,

Defendant.

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT  
CASE NO.: 2020-CP-08-00821

**ORDER DENYING GOOSE CREEK'S  
MOTION FOR RECONSIDERATION**

**RECEIVED**

**Nov 02 2020**

**SC Court of Appeals**

The Plaintiff City of Goose Creek filed a motion asking this Court to reconsider its October 12, 2020 Declaratory Judgment Order. Specifically, Plaintiff asks the Court to reconsider four findings within the Order: (1) the interpretation of the statutory and constitutional provisions regarding the right to serve the Mt. Holly Smelter as between Goose Creek and Santee Cooper, (2) the applicability of S.C. Code § 58-27-1360 to this case, (3) the historical basis of Santee Cooper's service to the Mt. Holley Smelter, and (4) the applicability of the delegation of governmental powers doctrine to this case.

STANDARD OF REVIEW

Motions for reconsideration will not be granted absent “highly unusual circumstances.” U.S. ex rel. Becker v. Washington Savannah River Co., 305 F.3d 284, 290 (4th Cir. 2002) (stating that simple disagreements with the court’s ruling will not support Rule 59(e) relief).<sup>1</sup> Courts have recognized three circumstances in which a court should grant a Rule 59(e) motion: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). Importantly, a motion for reconsideration is not a

<sup>1</sup> Rule 59 is substantially the same as the Federal Rule. *See Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 21, 602 S.E. 2d 772, 779 (2004) (“Rule 59(e) in the South Carolina and federal rules of civil procedure is practically identical.”).

vehicle to re-litigate previously raised issues or “to raise argument or present evidence that could have been presented prior to the entry of judgment.” Dash v. Mayweather, C/A No. 3:10-1036-JFA, 2010 U.S. Dist. LEXIS 95277, \*2 (D.S.C. Sept. 13, 2010) (quoting Exxon Shipping Co. v. Baker, 554 U.S. 471, n.5 (2008)). In other words, “[a] party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not.” Stevens & Wilkinson of S.C., Inc. v. City of Columbia, 409 S.C. 563, 567, 762 S.E.2d 693, 695 (2014); Patterson v. Reid, 318 S.C. 183, 185, 456 S.E.2d 436, 437 (Ct. App. 1995). Nor does “[a] party’s mere disagreement with the court’s ruling . . . warrant a Rule 59(e) motion.” In re Pella Corp. Architect & Designer Series Windows Mktg., Sales Practices & Prods. Liab. Litig., 269 F.Supp. 3d 685, 691 (D.S.C. 2017); *see also* Lyons v. Fid. Nat’l Title Ins. Co., 415 S.C. 115, 135, 781 S.E.2d 126, 137 (Ct. App. 2015).

After consideration of the issues raised in Plaintiff’s motion and the parties’ memoranda in support and in opposition, the Court hereby DENIES Plaintiff City of Goose Creek’s Motion for Reconsideration.

AND IT IS SO ORDERED.

ELECTRONIC SIGNATURE PAGE TO FOLLOW



Berkeley Common Pleas

**Case Caption:** City Of Goose Creek VS South Carolina Public Service Authority

**Case Number:** 2020CP0800821

**Type:** Order/Other

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134