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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

Case No. 2020-001445

Mr. Randy Gilchrist and Mrs. Cheryl Gilchrist
Appellants

v.

Duke Energy Carolinas, LLC
Respondent

**Objection to Respondent Duke Energy Carolina, LLC's
Motion to Strike Appellant's Designation of Matter and
Appellants' Motion to Admit Evidence as Offer of Proof**

Pursuant to Rule 103, Rulings on Evidence (2) Offer of Proof, Appellants seek an order denying Respondent's Motion to Strike and granting Appellants Motion to Admit Evidence as Offer of Proof.

BACKGROUND

Appellants are in this court today because the Public Service Commission denied us an opportunity to properly present evidence at a hearing. The Appellants' complaint filed with the Commission and subsequent motions

filed with the Commissioners raised serious Constitutional issues relating to the installation of these smart meters. This complaint was dismissed without a hearing wherein we could properly present evidence to substantiate our claim. The Constitutional issues raised were ignored/not addressed. The Appellants have followed the rules of procedure to the best of their ability. The dismissal of the complaint was followed by the Appellants asking for reconsideration/rehearing, and when denied, the rules provide for an appeal to this court, and that is where we are today.

ARGUMENT

In filings with the Public Service Commission (hereinafter PSC) Appellants repeatedly referred to evidence that they wished to present. Many of the documents included in Appellants' Designation of Matter are correspondence between Duke Energy Carolinas, LLC (hereinafter DEC) and Appellants as well as between the PSC and Appellants. These documents are referred to in the Statement of the Case in our Initial Brief. Many of the documents that DEC wishes to exclude are correspondence between DEC and the Gilchrists; DEC cannot truthfully claim being unaware of them, and these documents are relevant to this appeal, so they should not be excluded. Other documents presented are scholarly articles that address the privacy issues that we have raised with the PSC and which should also not be excluded in the interests of justice.

It is our contention that the PSC failed in their duty to uphold their oaths, hiding behind statutes, orders, and rules. Apparently the PSC does not believe it is within their purview to rule on Constitutional issues. Therefore, since we were not allowed to present evidence before the Commission at a hearing before the Commission, and we did bring the existence of this evidence to their attention, we are asking this court to admit this evidence as an offer of proof per Rule 103, Rulings on Evidence.

In our filings with the PSC as well as in our correspondence with the DEC we were very specific as to our "aversion" to smart meters. This appeal asks the appellate court to rule on whether the PSC – whose members take an oath of office to support and defend the Constitution of the United States as well as to support and defend the Constitution of the State of South Carolina – as to whether they can hide behind a Commission-jurisdictional statute, order, or rule. It is the Appellants' contention that their duty as an administrative tribunal is to protect persons and property and to be watchful for violations of the Constitutional Rights of the citizens. Administrative tribunals are bound by these Constitutions and derive their authority from them.

In the interests of justice, due to the fact that Appellants were denied an opportunity to present evidence at a hearing before the Commission, the appellate court should allow all of our Designation of Matter to be included in the Record. We believe that without the materials in our Designation of

Matter, the court will be hampered and unable to render a fair and just decision.


WHEREFORE we move the court to continue with this appeal which DEC's lawyers are not objecting to, and deny Respondent's Motion to Strike Appellants' Designation of Matter and grant Appellants' Motion to Admit Evidence as Offer of Proof.

Dated February 18, 2021

Randy and Cheryl Gilchrist
Appearing Pro Per/Appellant



Randy Gilchrist



Cheryl Gilchrist

Mr. and Mrs. Randy Gilchrist
3010 Lake Keowee Lane
Seneca, SC 29672
Phone: 864.903.0375
Appearing Pro Per/Appellants

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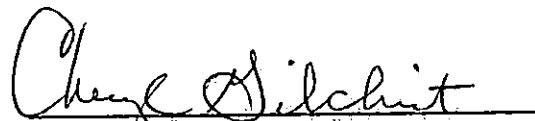
PROOF OF SERVICE

We certify that we have served a copy of the Appellants' Objection to Respondent Duke Energy Carolina, LLC's Motion to Strike Appellants' Designation of Matter and Appellants' Motion to Admit Evidence as Offer of Proof on all the parties of record by depositing it in the United States mail, postage pre-paid on February 18, 2021, sent to the addresses on page two.

February 18, 2021

Randy and Cheryl Gilchrist
Appearing Pro Per/Appellant


Randy Gilchrist


Cheryl Gilchrist

Parties of Record:

**Honorable Jocelyn C. Boyd, Chief Clerk/Executive Director
Public Service Commission of South Carolina
101 Executive Center Drive
Suite 100
Columbia, SC 29210**

Attorneys for Respondent, Duke Energy Carolinas, LLC:

**Samuel J. Wellborn, Esq.
Heather Shirley Smith, Esq.
Katie Michelle Brown, Esq.**

**Robinson Gray Stepp & Laffitte, LLC
P.O. Box 11449
Columbia, SC 29211**

Randy and Cheryl Gilchrist

3010 Lake Keowee Lane
Seneca, SC 29672

Phone: 864.903.0375

February 15, 2021

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: Mr. Randy Gilchrist and Mrs. Cheryl Gilchrist, Appellants
v. Duke Energy Carolinas, LLC, Respondent
Case No. 2020-001445

Dear Ms. Kitchings:

Enclosed for filing is the Appellants' Return to Respondent's Motion to Strike Appellants' Designation of Matter and Proof of Service on parties of record. Enclosed is a filing fee of \$50 and an original plus seven copies, one of which we request that you stamp and return to us in the enclosed, self-addressed stamped envelope. Thank you for your attention to this matter.

Sincerely,

Randy Gilchrist
Cheryl Gilchrist

Randy and Cheryl Gilchrist

Appearing Pro Per/Appellants

Mr. and Mrs. Randy Gilchrist

Cc:

Honorable Jocelyn C. Boyd, Chief Clerk/Executive Director
Public Service Commission of South Carolina
101 Executive Center Drive
Suite 100
Columbia, SC 29210

ON 2/16/21 Spoke to KATHERINE AT
YOUR OFFICE SHE SAID \$50.00 FEE
NOT REQUIRED

Attorneys for Respondent, Duke Energy Carolinas, LLC:

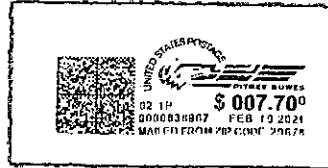
Samuel J. Wellborn, Esq.
Heather Shirley Smith, Esq.
Katie Michelle Brown, Esq.

Robinson Gray Stepp & Laffitte, LLC
P.O. Box 11449
Columbia, SC 29211

Enc.: Proof of Service

Original and seven copies of Appellants' Return to Respondent's Motion

Mr. and Mrs. Randy Dilchrist
3010 Lake Rowce Lane
Aerica, SC 29672



The Honorable Jenny Abbott Kitchings
Clerk, South Carolina
Court of Appeals
Post Office Box 11629
Columbia, SC 29211



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