

RECEIVED

Apr 16 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

South Carolina Public Service Commission Docket No. 2020-147-E

Appellate Case No. 2020-001445

Randy and Cheryl Gilchrist.....Appellants,

v.

Duke Energy Carolinas, LLCRespondent.

**RESPONDENT’S RETURN TO
APPELLANTS’ MOTION TO REMAND CASE
TO PUBLIC SERVICE COMMISSION**

Respondent Duke Energy Carolinas, LLC (the “Company”) submits this return opposing Appellants’ Motion to Remand (“Motion”) this case to the South Carolina Public Service Commission (the “Commission”). Remand to the Commission is neither warranted nor appropriate in this case. As recited in Appellants’ Motion, Appellants filed a Complaint, which the Commission dismissed; Appellants then sought reconsideration or rehearing, which the Commission denied; and Appellants appealed the Commission’s final order. There is no procedural defect that would warrant remanding this case to the Commission.

As explained in the Company’s respondent’s brief to be filed in this appeal, the Commission has reviewed and authorized the metering options made available by the Company,

including the default smart meter option, as well as the opt out alternative that customers may elect should they oppose being served by a smart meter. Although Appellants are philosophically opposed to “opting out” of being served by a smart meter, such does not rise to the level of a justiciable controversy, nor a Commission-jurisdictional violation as required by S.C. Code Ann. § 58-27-1940. For that reason, the Commission appropriately exercised its statutorily granted authority to dismiss the complaint without the need for a hearing. As succinctly stated by the Commission, “[the Company] has not violated any statute, nor Commission rule or regulation. Therefore, there is no relief available to the Complainants in this case, and the case must be dismissed.” Order No. 2020-562 at 3-4, Docket No. 2020-147-E (Aug. 24, 2020).

For the reasons explained herein, the Company requests that the Court deny Appellants’ Motion.

Respectfully submitted,

s/Samuel J. Wellborn
Frank R. Ellerbe, III, Esquire (Bar No. 1866)
Samuel J. Wellborn, Esquire (Bar No. 101979)
Robinson Gray Stepp & Laffitte, LLC
1310 Gadsden Street
Columbia, South Carolina 29201
803.929.1400

Attorneys for Respondent
Duke Energy Carolinas, LLC

Columbia, South Carolina
April 16, 2021