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Apr 22 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

Case No. 19-ALJ-17-0153-CC
Appellate Case No. 2020-001542

Duke Energy Corporation, Appellant,

v.

South Carolina Department of Revenue, Respondent.

**RESPONDENT’S DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Pursuant to Rule 209 of the South Carolina Appellate Court Rules, Respondent, South Carolina Department of Revenue, respectfully requests that the following items be included in the Record on Appeal:

ORDERS

1. ALC Order on Cross-Motions for Summary Judgment, dated October 27, 2020
2. Court of Appeals’ Order granting Duke an extension of time to file its initial brief and designation of matter, dated December 29, 2020
3. Court of Appeals’ Order granting the Department an extension of time to file its initial brief and designation of matter, dated March 2, 2021
4. Court of Appeals’ Order granting the Department an additional ten day extension of time to file its initial brief and designation of matter, dated March 18, 2021

MOTIONS/BRIEFS AND RESPONSES

5. Department's Motion for Summary Judgment and Memorandum in Support of the Department's Motion for Summary Judgment, dated July 31, 2020
6. Duke's Motion for Summary Judgment and Memorandum in Support of Duke's Motion for Summary Judgment, dated July 31, 2020
7. Department's Response to Duke's Motion for Summary Judgment, dated August 31, 2020
8. Duke's Response to the Department's Motion for Summary Judgment, dated August 31, 2020
9. Department's Reply to Duke's Response in Opposition to the Department's Motion for Summary Judgment, dated September 15, 2020
10. Duke's Reply to the Department's Response in Opposition to Duke's Motion for Summary Judgment, dated September 15, 2020

TRANSCRIPTS

11. Summary Judgment hearing transcript, dated September 24, 2020
12. Excerpts from the Deposition of Dana Taylor, dated February 6, 2020
13. Excerpts from the Deposition Transcript of Frank Rainwater, dated February 5, 2020
14. Excerpts from the Deposition Transcript of Orville Sharpe, dated February 5, 2020
15. Excerpts from the Deposition Transcript of Timothy Donovan, dated February 4, 2020
16. Excerpts from the Deposition Transcript of Robert Thomas, dated February 4, 2020
17. Excerpts from the Deposition Transcript of Jerilynn VanStory, dated February 4, 2020
18. Excerpts from the Deposition Transcript of Thomas Cooper Monroe, III, dated February 5, 2020
19. Excerpts from the Deposition Transcript of Meredith Cleland, dated May 28, 2020

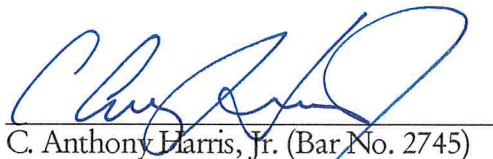
EXHIBITS AND OTHER MATERIALS OR DOCUMENTS

20. Department's Motion for Summary Judgment, Exhibit A, Notice of Adjustment dated July 19, 2018

21. Department's Motion for Summary Judgment, Exhibit B, Department Determination dated April 26, 2019
22. Department's Motion for Summary Judgment, Exhibit C, titles to 1998 Act No. 419 and 1998 Act No. 442
23. Duke Energy Motion for Summary Judgment, Exhibit 1, Senate Finance Committee email
24. Duke Motion for Summary Judgment, Exhibit 8, credit form 9198
25. Duke Motion for Summary Judgment, Exhibit 9, credit form 9198
26. Duke Motion for Summary Judgment, Exhibit 10, credit form dated 8-17-99
27. Duke Motion for Summary Judgment, Exhibit 11, credit form dated 9-11-00
28. Duke Motion for Summary Judgment, Exhibit 12, credit form dated 8-26-02
29. Duke Motion for Summary Judgment, Exhibit 13, credit form dated 8-5-03
30. Duke Motion for Summary Judgment, Exhibit 14, credit form dated 9-8-05
31. Duke Motion for Summary Judgment, Exhibit 15, credit form dated 10-4-06
32. Duke Motion for Summary Judgment, Exhibit 16, credit form dated 7-20-07
33. Duke Motion for Summary Judgment, Exhibit 17, credit form dated 8-8-11
34. Duke Motion for Summary Judgment, Exhibit 18, credit form dated 5-9-13
35. Duke Motion for Summary Judgment, Exhibit 23, credit form dated 7-24-14
36. Duke Motion for Summary Judgment, Exhibit 26, Department 2008-2011 audit report
37. Duke Motion for Summary Judgment, Exhibit 30, South Carolina Senate Bill S.0428
38. Duke Motion for Summary Judgment, Exhibit 31, fiscal impact statement for S.0428
39. Duke Motion for Summary Judgment, Exhibit 32, Department's memo for S.0428
40. Duke Motion for Summary Judgment, Exhibit 33, Department's drafting memo
41. Duke Motion for Summary Judgment, Exhibit 38, Duke's Protest of Department's Notice of Adjustment

42. Duke Motion for Summary Judgment, Exhibit 39, Duke's Request for a Contested Case Hearing

The undersigned counsel hereby certifies, pursuant to Rule 209(c) of the South Carolina Appellate Court Rules (SCACR) that this Designation contains no matter which is irrelevant to the appeal.



C. Anthony Harris, Jr. (Bar No. 2745)
Associate Counsel
Jason P. Luther (Bar No. 78021)
Chief Legal Officer
P.O. Box 12265
Columbia, SC 29211-9979
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Charles.Harris@dor.sc.gov

Attorneys for Respondent
South Carolina Department of Revenue

Columbia, South Carolina
April 22, 2021

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

Case No. 19-ALJ-17-0153-CC
Appellate Case No. 2020-001542

Duke Energy Corporation, Appellant,

v.

South Carolina Department of Revenue,..... Respondent.

PROOF OF SERVICE

I, Tonie M. Miranda, hereby certify that I have caused to be mailed a copy of Respondent South Carolina Department of Revenue’s Initial Brief and Designation of Matter regarding the above-referenced case, by causing a copy of same to be deposited in the United States Mail, postage prepaid, and via electronic mail, on April 22, 2021, addressed to the attorney(s) of record, Samantha K. Trencs, Esquire, samtrencs@eversheds-sutherland.com; Eversheds Sutherland (US) LLP, 700 Sixth Street, NW, Suite 700, Washington, DC 20001-3980; and Maria M. Todorova, Esquire, MariaTodorova@eversheds-sutherland.com; Eric S. Tresh, Esquire, erictresh@eversheds-sutherland.com; and Chris R. Lee, Esquire, ChrisLee@eversheds-sutherland.com; at Eversheds Sutherland (US), LLP; 999 Peachtree Street, NE, Suite 2300, Atlanta, GA 30309-3996; and by *electronic mail* to the Court of Appeals, ctappfilings@sccourts.org, 1220 Senate Street, Columbia, SC 29201.

Tonie M. Miranda, Paralegal for Respondent
Office of General Counsel
South Carolina Department of Revenue

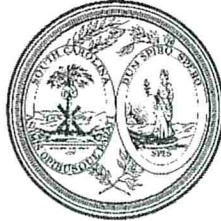
STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
OFFICE OF THE GENERAL COUNSEL

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SC Court of Appeals

Physical Address:
300A Outlet Pointe Blvd.
Columbia, SC 29210



Mailing Address:
PO Box 12265
Columbia, SC 29211-9979

April 22, 2021

VIA ELECTRONIC MAIL TO CTAPPFILINGS@SCCOURTS.ORG

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Duke Energy Corporation, Appellant, v. South Carolina Department of Revenue, Respondent
Appellate Case No. 2020-001542
ALC Docket No. 19-ALJ-17-0153-CC

Dear Ms. Kitchings:

Enclosed please find the Respondent's Initial Brief and Designation of Matter in regards to the above-referenced matter. Additionally, I have enclosed a Proof of Service.

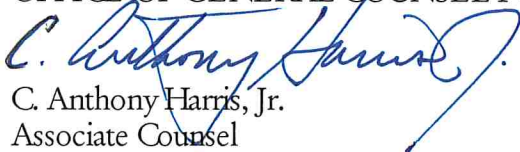
By copy of this letter I am serving all counsel of record with a copy of same.

Should you have any questions, please do not hesitate to contact me at 803-898-5278 or Charles.Harris@dor.sc.gov. If I am not available you can reach my paralegal, Tonie Miranda, at 803-898-5369 or Tonie.Miranda@dor.sc.gov.

With kindest regards, I am

Sincerely Yours,

OFFICE OF GENERAL COUNSEL FOR LITIGATION


C. Anthony Harris, Jr.
Associate Counsel

c: Samantha K. Trencs, Esquire - samtrenacs@eversheds-sutherland.com
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Enclosures
CAH: tm