STATE OF SOUTH CAROLINA

ADMINISTRATIVE LAW COURT

MRI at Belfair, LLC, d/b/a 3T MRI at Belfair, Petitioner, v. South Carolina Department of Health and Environmental Control and Beaufort Memorial Hospital, Respondents.	Docket No.: 20-ALJ-07-0235-CC **ORDER GRANTING IN PART AND DENYING IN PART PETITIONER'S MOTION TO ALTER OR AMEND AND GRANTING RESPONDENT'S MOTION TO DISMISS**

This matter came before the South Carolina Administrative Law Court (ALC or Court) on a request for a contested case hearing filed on September 9, 2020, by MRI at Belfair, LLC, d/b/a 3T MRI at Belfair (Petitioner or Belfair). Petitioner sought review of a determination by the South Carolina Department of Health and Environmental Control (Department or DHEC) that the State Certification of Need and Health Facility Licensure Act, S.C. Code Ann. § 44-7-110 through -394 (2018 and Supp. 2019) (CON Act) did not apply to a relocation of a 1.5 Tesla[1] Magnetic Resonance Imaging scanner (MRI) from a physicians' office building, owned by Beaufort Memorial Hospital (BMH), located at 300 Midtown Drive, Port Royal, South Carolina, to a physician's office building at 122 Okatie Center Boulevard North, Okatie, South Carolina. Both locations are in Beaufort County.

Respondent BMH filed a Motion to Dismiss on January 8, 2021. The Court granted this motion by order dated March 30, 2021. On April 9, 2021, Petitioner filed a Motion to Alter or Amend the Order Granting Judgment in Favor of Respondents. On April 19, 2021, both BMH and DHEC submitted memoranda in opposition to Belfair's motion.

On April 21, 2021, Belfair submitted a Motion for Leave to File a Reply to BMH's Memorandum in Opposition to Petitioner's Motion to Alter or Amend. The Reply challenged BMH's

[1] Named for the physicist and inventor Nikola Tesla, a tesla is a measure of magnetic flux density. Belfair's device is a 3 Tesla magnetic resonance imaging scanner in contrast to Beaufort Memorial Hospital's 1.5 Tesla scanner.

characterization of Belfair's agreement to stay discovery. BMH filed a memorandum opposing the Reply on April 22, 2021. The Motion for Leave to File a Reply is granted. The Court agrees that Petitioner's consent to stay discovery cannot be construed as a concession that discovery was not necessary.

This fact, however, does not preclude the Court from deciding this case as a matter of law. *See Amisub of S. C., Inc. v. S.C. Dep't of Health & Envtl. Control*, 403 S.C. 576, 582-583, 743 S.E.2d 786, 790 (2013).

Background and Procedural History

BMH replaced an MRI scanner at its physician's office at Port Royal with a scanner with similar capabilities, as defined in S.C. Regs. 61-15, § 103.16.[2] On April 4, 2019, DHEC issued a Non-Applicability Determination (NAD) allowing the replacement. BMH completed the installation of the 1.5 Tesla MRI in early 2020 within the parameters of the NAD.[3] There was no opposition to nor an appeal from the NAD (NA-19-03). This determination is final and is not subject to review by this Court. (*See, infra,* Circumstances Not Requiring a CON, p.8, and Projects Requiring Non-Applicability Determinations, pp. 9, 10.)

On May 20, 2020, BMH asked DHEC to confirm that the CON Act did not apply to the relocation of the 1.5 Tesla MRI scanner from Port Royal to Okatie. On July 1, 2020, DHEC issued a determination, NA-20-04, agreeing that the Act did not apply to the project.

On July 6, 2020, Belfair identified itself as an affected party and, on July 7, 2020, requested final review of NA-20-04 by the Department's Board. The Board declined to hold a final review conference by letter issued August 12, 2020. On September 9, 2020, Belfair filed a request for a contested case hearing before the ALC.

BMH filed a Motion to Dismiss the contested case on January 8, 2021, in which it contended that the CON Act did not apply and that the relocation was not an acquisition and did not require a Certificate of Need (CON) pursuant to S.C. Code Ann. § 44-7-160 (2018) and 3 S.C. Ann. Regs.

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[2] "Like equipment with similar capabilities means medical equipment in which functional and technological capabilities are identical to the equipment to be replaced; and the replacement equipment is to be used for the same or similar diagnostic, therapeutic, or treatment purposes as [the equipment] currently in use; and does not constitute a material change in service or a new service."

[3] NA-19-03 is the correct designation although some documents in the file identify this NAD as NA-19-09.

61-15, § 102(1) (Supp. 2019).[4] BMH also contended that the relocation cost of $125,000.00, less than $600,000.00, excused the relocation from the regulation even if it were an acquisition.

Petitioner filed a Response in Opposition to the Motion on January 22, 2021, accompanied by eight exhibits (A-H), which, in turn, included other documents.

On January 25, 2021, the Department filed a response in support of BMH's motion, which included eight exhibits with other documents. The Department concluded that "the relocation within a service area of a replacement MRI obtained through a non-applicability determination" did not require "written approval by DHEC."

On February 8, 2021, BMH replied to Belfair's response.

On February 10, 2021, the Court notified the parties of a hearing on the Motion to Dismiss. The hearing, with all parties represented, was held on March 16, 2021.[5]

To address more clearly the issues raised by Petitioner, the order of March 30, 2021, is withdrawn and is replaced by this order.

Discussion of Petitioner's Motion to Alter or Amend

BMH's motion identified three grounds for dismissal. Two raised jurisdictional issues based on SCRCP pleading rules, Rule 12(b) (1) and (6), SCRCP. SCALC Rule 68 provides that a presiding judge may apply the South Carolina Rules of Civil Procedure "to resolve questions not addressed

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[4] A person or health care facility as defined in this Regulation is required to obtain a Certificate of Need from the Department of Health and Environmental Control before undertaking any of the following:

a. The construction or other establishment of a new health care facility;

* * *

c. An expenditure by or on behalf of a health care facility in excess of two million dollars ($2,000,000) which, under generally acceptable accounting principles consistently applied, is considered a capital expenditure except those expenditures exempted in Section 104. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the development, acquisition, improvement, expansion, or replacement of any plant or equipment must be included in determining if the expenditure exceeds the prescribed amount;

d. capital expenditure by or on behalf of a health care facility which is associated with the addition or substantial expansion of a health service for which specific standards or criteria are prescribed in the South Carolina Health Plan;

* * *

f. The acquisition of medical equipment which is to be used for diagnosis or treatment if the total project cost is in excess of six hundred thousand dollars ($600,000).

[5] In its motion, BMH requested a stay of discovery. On February 2, 2021, the Court issued an Amended Scheduling Order suspending discovery until after its decision on the Motion to Dismiss, effectively granting the Motion to Stay Discovery. See also the Court's discussion of Belfair's Motion for Leave to Reply, *supra*.

by [the SCALC] rules." The Court does not find it necessary to apply Rules 12(b)(1) and (6), SCRCP, to resolve any issues in this case. While Petitioner is correct that Rules 12(b)(1) and (6) are inappropriate, rejecting the argument based on these rules does not defeat the motion.

BMH also relied on SCALC Rule 19 and moved for dismissal as a matter of law. Pursuant to SCALC Rule 19, this motion identified the relief sought and the legal grounds for granting that relief.

Petitioner's first argument in its reconsideration motion is that the Court, without notice, converted BMH's Motion to Dismiss to one for summary judgment. This contention is in error.

Petitioner is correct in that the motion to dismiss was not identified by the parties as a motion for summary judgment pursuant to Rule 56, SCRCP. However, a motion to dismiss under SCALC Rule 19 as a matter of law invokes principles analogous to a motion for summary judgment. Consequently, the Court examines the statutory and regulatory basis for the relief sought.

Petitioner's second argument, relying on Rule 56, SCRCP, argues that a motion for summary judgment should be denied or delayed so that Belfair could complete discovery. In this case, the only facts to be developed in discovery would explore the "acquisition" costs associated with the project. However, this discovery would be appropriate only if the relocation of the previously purchased MRI scanner can be characterized, at this point in its history, as an acquisition. The Court concludes that the project in question is not an acquisition in the sense intended by statute and regulation.

Petitioner's third argument in its reconsideration motion asserts, without citation to statute, regulation, or case law, that the Court erred in determining that the offices of a physician or a group of physicians "are not 'health care facilities' under the applicable code and regulation." The Court disagrees with this argument.

A health care facility is defined as follows:

> Health care facility for the purposes of Certificate of Need means acute care hospitals, psychiatric hospitals, alcohol and substance abuse hospitals, nursing homes, ambulatory surgical facilities, rehabilitation facilities, residential treatment facilities for children and adolescents, intermediate care for the persons with intellectual disability, inpatient hospice facilities, radiation therapy facilities and any other facility for which Certificate of Need review is required by state law.

3 S.C. Code Ann. Regs. 61-15 § 103(12) (Supp. 2020); *See also* S.C. Code Ann. § 44-7-130(10) (2018).

Further, "hospital" is defined in like manner as:

> ... a facility organized and administered to provide services to accommodate two or more non-related persons for the diagnosis, treatment and care of such persons over a period exceeding 24 hours and provides medical or surgical care or nursing care of illness, injury, or infirmity and may provide obstetrical care, and in which all diagnoses, treatment, or care is administered by or under the direction of persons currently licensed to practice medicine, surgery, or osteopathy.

Id. § 103(14); *See also* S.C. Code Ann. § 44-7-130(12) (2018).

A physicians' office, for which a CON is not required and which does not provide overnight care, is neither a health care facility nor a hospital as defined in regulation and statute.

In addition, as the South Carolina Supreme Court has held, a private physician's office is exempt from CON review. *Amisub*, 403 S.C. at 595-96, 743 S.E.2d 786, 797 (referring to "an exemption from the CON process" for "the office of a licensed private practitioner." The Court held that "[u]nder the CON Act and the regulation, this exemption does not require a formal, written determination or approval from DHEC.").

Jurisdiction

BMH's argument, made pursuant to Rule 12(b)(1) and (6), SCRCP, contends that DHEC had no legal duty to issue a decision and that, therefore, the ALC lacked subject matter jurisdiction and was without legal authority to conduct a contested case hearing. In this argument, BMH relied on a proposition from *Amisub*:

> . . . [when] there was no legal duty owed by DHEC to issue a staff decision in this matter, which is the trigger giving rise to a contested case, there was no corresponding obligation that [Petitioner] be afforded a contested case hearing before the ALC. Accordingly, we hold [Petitioner] may not utilize the contested case review process where it has not been authorized by the General Assembly.

Id. at 596, 743 S.E.2d at 797. In *Amisub*, in which no decision was issued by DHEC, there was no decision that could become final. A ministerial decision exempting a health care facility's competitor from the process of obtaining a CON or an NAD need not require a formal written determination. In this case, as in *Amisub*, the circumstances do not give rise to a contested case under the Administrative Procedures Act.

However, the Court must determine whether DHEC's decision was ministerial or judicial in nature. Constitutional provisions "confer the rights to notice and for an opportunity to be heard. 'No person shall be finally bound by a judicial or quasi-judicial decision of an administrative agency affecting private rights except on due notice and an opportunity to be heard . . . and he shall in all such instances the right to judicial review.'" *Stono River Envtl. Protection Ass'n v. S.C. Dep't of Health and Envtl. Control*, 305 S.C. 90, 94, 406 S.E.2d 340, 342 (1991) (quoting S.C. Const., Art.I, Section 22.).

A quasi-judicial determination issued in a formal, written decision is subject to judicial review. *Redmond v. Lexington Cty Sch. Dist. No. Four,* 314 S.C. 431, 437-38, 445 S.E.2d 441, 445 (1994); *see also Amisub,* 403 S.C. at 588-89, 743 S.E.2d 786, 793.

Without requesting a formal NAD, BMH submitted an equipment replacement form for the MRI relocation without checking boxes either for exemption or for non-applicability.[6] BMH included modification, installation, and transportation (freight) costs. The Department interpreted the form and correspondence as a request for a non-applicability determination and issued NA-20-04 on July 1, 2020.

In the circumstances of this case, the Court concludes that the NAD was issued after the staff analyzed the situation, the costs, and exercised its discretion in determining that the Act did not apply to the relocation. Therefore, DHEC issued a quasi-judicial determination, and Belfair properly invoked the jurisdiction of the ALC although the Court ultimately decided that a contested case hearing was not necessary.

Discussion and Conclusions of Law

BMH's Motion to Dismiss as a Matter of Law

SCALC Rule 19(A) provides that a pre-hearing motion shall "state the grounds for relief and the relief sought." BMH cited SCALC Rule 19 in its Motion to Dismiss and stated the grounds it believed would justify the relief sought. Although the motion is not identified by the parties as a motion for summary judgment pursuant to Rule 56, SCRCP, a motion to dismiss as a matter of law invokes principles analogous to a motion for summary judgment and requires the Court to

[6] In the Staff Response to Belfair's Request for Final Review, DHEC pointed out that the form BMH submitted in asking for a written non-applicability determination was a Replacement of Equipment form that did not apply to the project involving moving rather than replacing equipment. DHEC previously issued the requested determination.

determine whether the conflict should be resolved solely under the governing statutory and regulatory law.

For this purpose, the Court will examine the following: Circumstances Requiring a CON, Circumstances not Requiring a CON, Exemptions from CON, Projects Requiring Non-Applicability Determinations, and Projects Requiring Prior Notification When CON Review is not Applicable.

A. Circumstances Requiring a CON

S.C. Code Ann. § 44-7-160 (2018) and 3 S.C. Code Ann. Regs. 61-15 § 102.1 (Supp. 2020) identify circumstances requiring a CON. The regulation provides specifics required by the statute and states as follows:

> 1. A person or **health care facility** as defined in this Regulation is required to obtain a Certificate of Need from the Department of Health and Environmental Control before undertaking any of the following:
>
> a. The construction or other establishment of a new health care facility;
>
> b. A change in the existing bed complement of a health care facility through the addition of one or more beds or change in the classification of licensure of one or more beds;
>
> c. An expenditure by or on behalf of a health care facility in excess of two million dollars ($2,000,000) which, under generally acceptable accounting principles consistently applied, is considered a capital expenditure except those expenditures exempted in Section 104. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the development, acquisition, improvement, expansion, or replacement of any plant or equipment must be included in determining if the expenditure exceeds the prescribed amount;
>
> d. capital expenditure by or on behalf of a health care facility which is associated with the addition or substantial expansion of a health service for which specific standards or criteria are prescribed in the South Carolina Health Plan;
>
> e. If no capital expenditure is made, the offering of any health service by or on behalf of a health care facility which has not been offered by the facility in the preceding twelve months and for which specific standards or criteria are prescribed in the South Carolina Health Plan. For purposes of this section, operating costs include expenditures incurred by the health care facility and any person or other entity on behalf of the health care facility to establish a new service. A person or other entity shall not be allowed to incur costs thereby attempting to enable a health care facility to avoid Certificate of Need review and establish a new service as described above;

> f. The **acquisition** of medical equipment which is to be used for diagnosis or treatment if the total project cost is in excess of six hundred thousand dollars ($600,000)[.]

3 S.C. Code Ann. Regs. 61-15 § 102.1 (Emphasis added.).

Accordingly, physician offices are not included in the definition of a health care facility. Therefore, there is no construction of a new health care facility or an expansion of the capacity of a health care facility. Moreover, there is no capital "expenditure by or on behalf of a health care facility in excess of two million dollars ($2,000,000)" or an expenditure "associated with the addition or substantial expansion of a health service for which specific standards or criteria are prescribed in the South Carolina Health Plan." In fact, as the parties concede, the State Health Plan imposes no standards or criteria for MRI scanners. [7]

B. Circumstances Not Requiring a CON

As discussed above, BMH is not constructing or establishing a new health care facility, nor is it changing bed complements. In fact, neither the current nor the proposed location is a "health care facility" as defined in S.C. Code Ann. § 44-7-130(10) and 3 S.C. Code Ann. Regs. 61-15 § 103(12). There is no capital expenditure associated with additions to or an expansion of a health service with standards or criteria prescribed in the applicable State Health Plan.

Lastly, there is no acquisition at a cost in excess of $600,000.00 for medical equipment to be used for diagnosis or treatment. Acquisition is "the gaining of possession or control over something." *Black's Law Dictionary* (11th ed. 2019). Since BMH previously obtained the MRI scanner in question as replacement equipment pursuant to NA-19-03, no acquisition is involved in the current matter. Under the regulation discussed above, BMH is not required to have a CON in order to relocate within the same service area an MRI scanner previously obtained pursuant to a non-applicability determination, which was not appealed.

C. Exemptions from CON

S.C. Code Ann. § 44-7-170(A) and 3 S.C. Code Ann. Regs. 61-15 § 104 provide for exemptions from CON requirements for certain transactions. These fall into two categories: exempt

[7] The parties admitted that there are no standards or criteria for acquiring or installing MRI equipment in the applicable State Health Plan. Thus, the project does not involve offering a health service that has prescribed standards or criteria in an applicable Plan.

transactions that require written determinations and exempt transactions that do not. Projects that **require** written determinations include the following:

> a. The replacement of like equipment for which a Certificate of Need has been issued and the replacement does not result in a material change in service or a new service.
>
> b. The acquisition by a health care facility of medical equipment to be used solely for research, the offering of an institutional health service by a health care facility solely for research, or the obligation of a capital expenditure by a health care facility to be made solely for research if it does not: (a) affect the charges of the facility for the provision of medical or other patient care services other than the services which are included in the research; (b) change the bed capacity of the facility; or (c) substantially change the medical or other patient care service of the facility. FDA research protocol and any applicable Investigational Device Exemption (IDE) policies and regulations must be followed by the facility. A written description of the proposed research project must be submitted to the department in order for the department to determine if the above conditions are met. A Certificate of Need is required to continue use of the equipment or service after the equipment or service is no longer being used solely for research;
>
> c. The permanent reduction in bed capacity, including the permanent closure of a health care facility.

3 S.C. Code Ann. Regs. 61-15 § 104.1.a to -c. Projects that **do not require** a written determination include "offices of a licensed private practitioner whether for individual or group practice." *Id.* § 104.4.

Replacement and acquisition were approved by NA-19-03. Therefore, for the relocation challenged herein, BMH was not required to obtain an exemption in writing from the Department.

D. Projects Requiring Non-Applicability Determinations

Certain facilities and expenditures are not governed by the Act. *See* S.C. Code Ann. § 44-7-170(B). The regulation, 3 S.C. Code Ann. Regs. 61-15 § 105 (Supp. 2020), describes projects for which CON review is not applicable but which require a written determination of non-applicability and projects to which CON review is not applicable but which do not require a written determination of non-applicability. A written determination of non-applicability is required for the following:

> a. **Replacement** of like equipment with similar capabilities as defined by the Department in Section 103.16.
>
> b. **Acquisition** of medical equipment which is to be used for diagnosis or treatment if the total project cost is not **in excess of** six hundred thousand dollars ($600,000). A written determination of non-applicability is only required when any

> question exists as to whether or not the total project cost is below the six hundred thousand dollars ($600,000) threshold.

3 S.C. Code Ann. Regs. 61-15 § 105.1a-b. Subsection 1.a governs replacement of like equipment. However, the NAD approving replacement, NA-19-03, was not challenged, and the appeal period has expired. Therefore, neither DHEC nor the ALC has jurisdiction to entertain a challenge to that determination. *Triska v. Dep't of Health and Envtl. Control*, 292 S.C. 190, 195, 355 S.E.2d 531, 533-34 (1987) ("DHEC does not have statutory, regulatory or federal authority to suspend or revoke a 401 Certification after it has been granted by the agency and the appeals process expired."). The South Carolina Supreme Court clearly viewed the delay and expiration of the appeal period as a jurisdictional barrier to subsequent review:

> The final decision by DHEC was made in November 1979. A delay of two and one-half years before the [Murrells Inlet Concerned Citizens] Association challenged the certification was not proper, and an adjudicatory hearing should not have been granted. See, e.g., *Wingate v. S.C. State Highway Dept.*, 276 S.C. 39, 274 S.E.2d 917 (1981).

Id. at 197-98, 355 S.E.2d at 535. *See also A.O. Smith Corporation v. S.C. Dep't of Health & Envtl. Control*, 428 S.C. 189, 205, 833 S.E.2d 451, 460 (2019) ("Because A.O. Smith did not file a request for a contested case hearing after the issuance of the permits in the time required, the ALC did not err in finding A.O. Smith's motion for a contested hearing untimely.").

Accordingly, the acquisition of the 1.5 Tesla MRI scanner, approved by NA-19-03, cannot be revisited by the ALC.

E. Projects Requiring Prior Notification When CON Review is Not Applicable

There are two types of projects to which CON review is not applicable and for which a written non-applicability determination is not required although written notification to the DHEC Division of Health Facilities Construction is required.[8] Notification must be made prior to undertaking the following:

> a. An expenditure by or on behalf of a health care facility for non-medical projects, such as refinancing existing debt, parking garages, laundries, roof

[8] The first category set out in S.C. Code Ann. Regs. § 105.4 (Supp. 2020) deals with federal-owned and state-owned health facilities and does not apply to this case.

replacement, computer systems, telephone systems, and heating and air conditioning systems;

b. The upgrading of medical facilities, which do not involve additional square feet to the facility or additional health services[.]

Id. § 105.5. If an MRI is included in health services and a professional office complex is included in the class of medical facilities (*Id.* § 103.13), then BMH satisfied this regulation by notifying DHEC of the relocation of its MRI scanner to the Okatie office.

Summary

If "acquisition" were an issue, it was addressed in NA-19-03. In that matter, the Department found that purchase or acquisition, as reflected in a replacement cost of less than $2,000,000.00, was a project to which the Act did not apply. Since that determination was not appealed, it cannot be revisited in the present case.

Since neither DHEC nor the ALC can reconsider NA-19-03 or the MRI's purchase value in this appeal, the only remaining costs that can be considered are those associated with the physical relocation itself and the chiller upgrade for the relocated MRI scanner. The only evidence is that these costs (in total) will be at or below $125,000.00. However, the Court concludes that they are not "acquisition" costs, which were expenses associated with the original purchase and installation subject to NA-19-03. Hence, there are no material facts in dispute or subject to discovery in this case.

Additional Arguments

Belfair also argues that BMH is splitting costs of this project into parts that, separately, evade review under the CON Act. 3 S.C. Code Ann. Regs. 61-15 § 102(2) (Supp. 2020). However, since the project does not include "[a]n expenditure by or on behalf of a **health care facility**" (3 S.C. Code Ann. Regs. 61-15 § 105(1)(c) (emphasis added), there can be no impermissible cost-splitting.

Belfair further contends that CONs, NADs, and written exemptions are location specific. For this principle, Belfair relies on 3 S.C. Code Ann. Regs. 61-15 § 802(2)(d),[9] a section which establishes Criteria for Project Review, particularly Community Need Documentation, and states as follows:

[9] In its reconsideration motion, Belfair cites this as S.C. Code Ann. Regs. 61-15 § **801**(2)(d).

> In the case of a reduction, relocation, or elimination of a facility or service, the applicant should address the need that the population presently has for the service, the extent to which that need will be met by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination, or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, the elderly, handicapped persons, and other underserved groups, to obtain needed health care.

Unfortunately for Belfair's argument, the review criteria depend on projects included in the State Health Plan. The State Health Plan does not include standards or criteria for MRI scanners. Moreover, "[t]he following projects are exempt from Certificate of Need review but do not require a written determination from the Department: the offices of a licensed private practitioner whether for individual or group practice." 3 S.C. Code Ann. Regs. 61-15 § 104(4). Moving equipment which is not covered by the CON Act from one exempt location to another in the same service area does not transform the relocation or the equipment into a project requiring CON review.

Conclusion

As a matter of law, the relocation of the 1.5 Tesla MRI scanner from the physician's office or the office of a group of physicians in Port Royal to a similar office in Okatie is not subject to CON review under the Act as stated in DHEC Determination NA-20-04. The Department Determination is proper.

It is, therefore,

ORDERED that BMH's Motion is **GRANTED,** and the case is **DISMISSED.**

AND IT IS SO ORDERED.

May 14, 2021
Columbia, South Carolina

H.W. Funderburk, Jr.
Administrative Law Judge

MRI at Belfair, LLC, v. SCDHEC and Beaufort Memorial Hospital
(Docket No.: 20-ALJ-07-0235-CC)

CERTIFICATE OF SERVICE

I, Elizabeth A. Perkins, hereby certify that I have this date served this **Order Granting In Part and Denying In Part Petitioner's Motion to Alter or Amend and Granting Respondent's Motion to Dismiss** upon all parties to this case by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the parties and/or their attorneys.

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May 14, 2021
Columbia, South Carolina

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