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SC Court of Appeals

The State of South Carolina
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph K. Anderson, III, Chief Administrative Law Judge

Appellate Case No. 2020-000983
Civil Action No. 2017-ALJ-17-0237-CC

Clarendon County, Florence County, Lee County, Sumter County,
Williamsburg County, Williamsburg County School District,
Clarendon School District Two, Florence School District One,
Florence School District Three, Sumter County School District,
Clarendon County Hospital District, Lee County School
District, and Clarendon School District One,..... Appellants/Respondents,

v.

South Carolina Dept. of Revenue, Farmers Telephone Cooperative,
Inc., FTC Communications, LLC and FTC Diversified Services,
LLC, Respondents,

of whom

Farmers Telephone Cooperative, Inc., FTC Communications, LLC
and FTC, Diversified Services, LLC, are Respondents/Appellants.

**RESPONDENTS/APPELLANTS FARMERS
TELEPHONE COOPERATIVE, INC., FTC COMMUNICATIONS,
LLC, AND FTC DIVERSIFIED SERVICES, LLC'S RESPONSE TO SOUTH CAROLINA
ASSOCIATION OF COUNTIES' AMICUS CURIAE BRIEF**

Willian E. DuRant, Jr.
1170 Old West Liberty St.,
Suite 1
Sumter, SC 29150
(803) 774-5323

Miles E. Coleman
Nelson Mullins Riley &
Scarborough, LLP
2 W. Washington St., 4th Floor
Post Office Box 10084
Greenville, SC 29601
(864) 250-2300

Bryson M. Geer
John C. von Lehe, Jr.
Nelson Mullins Riley &
Scarborough, LLP
151 Meeting Street, 6th Floor
Post Office Box 1806
Charleston, SC 29401-2239
(843) 853-5200

*Attorneys for Respondents/Appellants Farmers Telephone Cooperative,
Inc., FTC Communications, LLC, and FTC Diversified Services, LLC*

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The Farmers Entities submit this brief in response to the South Carolina Association of Counties’ (the “Association”) *Amicus Curiae* Brief (the “Amicus Brief”).

SUMMARY OF ARGUMENT

The Amicus Brief does not provide any information or analysis that will assist the Court in understanding the issues in the case, and, in fact, does quite the opposite by muddying the waters on several important issues. It primarily repeats arguments that have already been advanced by the Taxing Entities and thoroughly briefed by the parties. It also misstates or misconstrues important findings and conclusions in the ALC’s order, the issues in the case, and the relevant law and makes policy arguments that are misguided and not supported by the facts in the case. Rather than address every such misstatement in the Amicus Brief, the Farmers Entities would respectfully refer the Court to the briefing of the parties in this appeal where the parties with an interest in the case fully and thoroughly addressed these issues. However, the Farmers Entities will address below a few key issues raised in the Amicus Brief.

ARGUMENT

I. The ALC Properly Held that the Taxing Entities Did Not Have Standing to Request a Contested Case Hearing under S.C. Code Ann. § 12-4-535.

The Association claims the ALC erred in ruling that the Taxing Entities do not have standing to request a contested case hearing under S.C. Code Ann. § 12-4-535. In addition to repeating the same errant arguments already made by the Taxing Entities, the Association fails to acknowledge that § 12-4-535 applies only when the Department issues a specific type of department determination and instead mischaracterizes the ALC’s ruling to create confusion as to what remains an issue in the case. Further, the Association seeks to expand the scope and applicability of § 12-4-535 far beyond what it actually provides by using the words “decisions” and “determinations” interchangeably as though § 12-4-535 gives local governments some

general, blanket right to request a contested case hearing for any and all “DOR decisions” or “determinations” that somehow relate to or impact property taxes. Finally, the Association incorrectly claims that some of the requirements in subsections (B) and (C) of § 12-4-535 can be ignored. As explained below, no standing exists under § 12-4-535 because no department determination was issued under subsection (A), and even if there was, the Taxing Entities did not comply with subsections (B) and (C).

A. No Department Determination under S.C. Code Ann. § 12-4-535(A) was Issued.

Similar to the Taxing Entities, the Association ignores the ALC’s ruling and reasoning behind the ruling and instead mischaracterizes the ALC’s findings. First, the Association ignores subsection (A) of the statute which the ALC correctly found requires a certain type of department determination (i.e., one directing a county official to comply with the law) that did not exist in this case. Am. Final Order at 39-40, n. 30. Second, the Association claims that “the ALC found that a series of supplemental certifications sent to the Counties by DOR were ‘department determinations’” (Amicus Brief at 4) without clarifying that the ALC did *not* find them to be department determinations *under section 12-4-535* (Am. Final Order at 39-40, n. 30). As set forth below, the Association cannot ignore subsection (A); the ALC did not find the supplemental certifications were department determinations under subsection (A); and, the supplemental certifications are not department determinations under subsection (A).

1. The Association, like the Taxing Entities, ignores § 12-4-535(A), which requires a specific type of department determination that did not exist in this case.

The Association ignores a critical subsection of the statute it purports to be interpreting. Subsections (B) and (C) are irrelevant in the absence of the Department issuing a department determination under subsection (A), which in this case did not occur.

Section 12-4-535 is found in Title 12, Chapter 4, Article 5 of the South Carolina Code of Laws. Article 5 provides instructions to the Department regarding its duties and powers when dealing with county tax officials and ensuring their compliance with the law. *See, e.g.*, S.C. Code Ann. §§ 12-4-520 and 12-5-530. It is an enforcement statute to ensure errant county officials comply with applicable law, and subsection (A) is the trigger that initiates the administrative process outlined in subsections (B) and (C). More specifically, subsection (A) allows the Department to issue “a department determination directing the appropriate county official to comply with [the applicable law]”, while subsections (B) and (C) provide deadlines for the relevant county (not the county official) to respond to the Department and ultimately request a contested case hearing regarding “the department determination” issued pursuant to subsection (A). *See* S.C. Code Ann. § 12-4-535(A)-(C) (emphasis added); *see also* Am. Final Order at 39-40, n. 30; Farmers Response at 59-60; SCDOR Brief at 11-12.

The law is clear: the statute must be interpreted as a whole. *See, e.g., Miller v. Aiken*, 364 S.C. 303, 307, 613 S.E.2d 364, 366 (2005) (holding that when interpreting a statute, “a court should not focus on any single section or provision but should consider the language of the statute as a whole”) (citation omitted); *State v. Dawkins*, 352 S.C. 162, 166, 573 S.E.2d 783, 785 (2002) (noting that courts must “consider the statute as a whole . . . in conjunction with the purpose of the whole statute”) (citations and internal quotation marks omitted); *Higgins v. State*, 307 S.C. 446, 449, 415 S.E.2d 799, 801 (1992) (“In construing statutory language, the statute must be read as a whole, and sections which are part of the same general statutory law must be construed together and each one given effect, if it can be done by any reasonable construction.”); *Jackson v. Charleston Cty. Sch. Dist.*, 316 S.C. 177, 181, 447 S.E.2d 859, 861 (1994) (“The true guide to

statutory construction is not the phraseology of an isolated section or provision, but the language of the statute as a whole considered in the light of its manifest purpose.”).

Here, the Association (and Taxing Entities) cannot jump straight to subsections (B) and (C) of § 12-4-535 while ignoring the fact that those subsections are implicated *only* in the scenario contemplated by subsection (A)—a scenario that undisputedly was not present here. Stated differently, subsections (B) and (C) are irrelevant and inapplicable in the absence of the Department issuing “a department determination directing the appropriate county official to comply” with the law. As the ALC correctly found, that never happened, and thus subsections (B) and (C) are irrelevant. Am. Final Order at 39-40, n. 30. The ALC found the Taxing Entities’ argument on the issue deficient because it ignored subsection (A). *Id.*; *see also* Farmer’s Response at 59-60; SCDOR Brief at 11-12. The Association does the same, and thus, their argument adds nothing that could help the Court on this issue.

2. The ALC did not find the supplemental certifications were department determinations under § 12-4-535.

To the extent the Association is implying the ALC found the supplemental certifications were department determinations under § 12-4-535 (*see* Amicus Brief at 4), this is not true. The ALC *first* determined the supplemental certifications were not “department determinations” as the term is used in § 12-4-535(A) (*see* Am. Final Order at 39-40, n. 30), *then* determined the supplemental certifications were “department determinations” as defined by S.C. Code Ann. § 12-60-30(10) under the Revenue Procedures Act (the “RPA”) (*id.* at 45),¹ ultimately concluding that the Taxing Entities had standing because the supplemental certifications were “department

¹ The definition of “department determination” in S.C. Code Ann. § 12-60-30(10) applies to Chapters 54 and 60 of Title 12 of the South Carolina Code of Laws. It does not apply to Chapter 5, which is where § 12-4-535 is located.

determinations” under §§ 12-60-2130 and 12-60-2150(H), both of which are under the RPA (*id.* at 56 (“[b]ecause . . . the Supplemental Certifications are department determinations . . . [the] Taxing Entities have statutory standing to bring this case before [the ALC] pursuant to section 12-60-2130 and section 12-60-2150(H)”)).² Consequently, if the Association is implying the ALC found *either* (1) that the supplemental certifications are department determinations under § 12-4-535(A); or (2) that a department determination under the RPA is likewise a department determination under § 12-4-535(A), that is false. The ALC found the exact opposite—there was no department determination under § 12-4-535(A) (Am. Final Order at 39-40, n. 30)—and the Association does not attempt to explain how the ALC erred or why the supplemental certifications are department determinations under § 12-4-535(A).

Similarly, the Association uses the words “decisions” and “determinations” interchangeably perhaps in an attempt to imply that § 12-4-535 gives local governments some general, blanket right to request a contest case hearing for any and all “DOR decisions” or “determinations” that somehow relate to or impact property taxes.³ Contrary to the Association’s belief, the rule of “liberal construction” provided by Article VIII, Section 17 of the South Carolina Constitution is not a license to ignore the statutory text or to substitute one’s own terms for the

² The Farmers Entities disagree that the supplemental certifications are department determinations under these statutes as well. *See* Farmers Brief at 13-29 and Farmers Reply at 1-8.

³ *See, e.g.*, Amicus Brief at 2 (citing § 12-4-535 for the proposition that the General Assembly has established processes and timelines related to property tax assessments and exemptions, “includ[ing] statutory timelines for . . . local government entities to dispute the *DOR decisions*.” (emphasis added)); *id.* at 3 (“[T]he General Assembly provided the counties a legislative pathway to challenge the *determinations* made by DOR *regarding property taxes*.” (emphasis added)); *id.* at 5 (“Section 12-4-535 provides a general process for multiple parties to dispute *DOR decisions*[.]” (emphasis added)); *id.* (“Counties and local governments have standing pursuant to Section 12-4-535 to request a contested case hearing *on property tax exemption decisions* of DOR.” (emphasis added)).

terms in the statute. As the ALC properly found, the Taxing Entities do not have standing under § 12-4-535 because the Department never issued a department determination as that term is used in subsection (A), which is necessary to initiate the administrative process described in subsections (B) and (C). Am. Final Order at 39-40, n. 30.

3. The supplemental certifications are not department determinations under § 12-4-535.

The supplemental certifications are not department determinations under S.C. Code Ann. § 12-4-535. As previously discussed, this statute addresses department determinations issued as part of the Department’s supervisory role with respect to county auditors and allows them to issue department determinations “directing the appropriate county official to comply with all applicable state law relating to the valuation, assessment, or taxation of property.” This statute is located in Chapter 4, Article 5 of Title 12, which deals with the powers and duties of the Department generally with respect to property taxes.⁴

On the other hand, department determinations that give rise to contested case hearings related to disputes over assessments and exemption decisions are addressed in the RPA. *See* S.C. Code Ann. § 12-60-10 et seq. The Legislature explicitly provided that the purpose of the RPA is “to provide the people of this State with a straightforward procedure to determine a dispute with the Department of Revenue and a dispute concerning property taxes.” S.C. Code Ann. § 12-60-20. It outlines the processes and procedures for assessments, protests, refund claims, department determinations, and requests for contested case hearings arising out of disagreements between the

⁴ *See* S.C. Code Ann. §§ 12-4-510 through 12-4-580. Chapter 4, Article 5 addresses such issues as the power of the Department to levy property taxes and order reassessments of property (§ 12-4-510), dealings and oversight of county tax officials (§ 12-4-520), investigation and prosecution of violations (§ 12-4-530), and the appraisal, assessment and equalization of certain properties (§ 12-4-540), among other things.

Department and taxpayers regarding property tax matters as well as other tax matters. *See* S.C. Code Ann. § 12-60-10 et seq.

The dispute in this case clearly is one between a taxpayer and the Department regarding a property tax matter, and, therefore, the RPA applies. The supplemental certifications at issue are not directing an errant county official to comply with the law as would be contemplated by § 12-4-535 but rather are simply revised property tax assessment certifications setting forth the values the counties should use when generating a tax bill. If a taxpayer disagrees with that assessment, then the RPA sets out the process for disputing it (*i.e.*, (1) file a protest; then reach a settlement, or alternatively, obtain a department determination; and then file a request for contested case hearing; or alternatively, (2) file a refund claim; obtain a department determination; and file a request for contested case hearing). *See e.g.*, S.C. Code Ann. §§ 12-60-2110 through 12-60-2150. To the extent the counties are allowed to also dispute those department determinations, that is also covered in the RPA under §§ 12-60-2130 and 12-60-2150.

Besides being contrary to the statutory language, the Association's interpretation of a supplemental certification as "a department determination directing the appropriate county official to comply with [the applicable law]" under § 12-4-535 would lead to absurd results. The supplemental certifications are simply revised (*i.e.*, updated) tax assessments providing values for use in generating tax bills (or, if taxes were already paid, refunds). Other than the values, they are no different than the yearly proposed assessments issued in this case or the revised assessments for 80% of the initial assessments issued in response to the yearly protests of the initial assessments. Treating supplemental certifications as department determinations would necessarily mean that all property tax assessment certifications are department determinations under subsection (A). Consequently, every time the Department issues a property tax assessment

certification to a county, the county could immediately file a contested case hearing if the county has any disagreement with the assessment. That would allow contested case hearings to be filed before the 90-day deadline for a taxpayer to file a protest has even passed (*see* § 12-60-2110) much less the one-year deadline (or eighteen-month deadline if an extension is requested by the Department) (*see* §12-60-450) for the Department to issue its department determination following a taxpayer’s protest. Cases would be in court long before a taxpayer had exhausted its administrative remedies. The General Assembly would never create such an administrative nightmare with dueling and conflicting administrative and judicial tracks for the resolution of tax disputes.

In sum, the Amicus Brief is unpersuasive because it fails to address the primary linchpin of obtaining standing under § 12-4-535 (*i.e.*, subsection (A)), which the Taxing Entities fail to satisfy as no department determination directing a county official to comply with the law was ever issued.

B. The Requirements in S.C. Code Ann. § 12-4-535(B) and (C) Cannot be Ignored or Collapsed into a Single Step.

The Association’s argument that subsections (B) and (C) can be “collapsed” into a single step is also incorrect and ignores important statutory requirements. Subsection (B) requires the county to respond to the department determination issued to the relevant county official under subsection (A) “[w]ithin thirty days of the date the department determination is mailed or hand delivered[.]” S.C. Code Ann. § 12-4-535(B). On the other hand, subsection (C) says the department “or the county governing body by resolution” may request a contested case hearing “within thirty days *after* the date the county disagreement notice [in subsection (B)] was, or should have been, mailed or hand delivered.” S.C. Code Ann. § 12-4-535(C) (emphasis added).

Thus, procedurally, nobody can request a contested case hearing until the earlier of (1) the expiration of the 30-day window provided by subsection (B), or (2) the county mails or hand delivers to the Department a statement of disagreement with the department determination. If a county could immediately file a contested case hearing or “simultaneously” satisfy subsections (B) and (C), the statute would not state that a county must file a response to the department determination, or, at a minimum, wait until the 30-day window to file that response has passed prior to filing a request for contested case hearing; instead, the statute would say that a county who disagrees with the department determination can immediately file a request for contested case hearing.⁵ The Taxing Entities failed to comply with subsection (B) and (C). More specifically, they failed to send the notice of disagreement required by (B), they prematurely requested a contested case hearing before (C) allows, and there is no evidence the county governing bodies by resolution requested a contested case hearing.

In sum, the language of the statute makes clear that subsections (B) and (C) cannot be ignored or collapsed into a single step, and the statute does not permit counties to immediately rush straight to court, which is what the Taxing Entities did here. Thus, even if the Department had issued a department determination under subsection (A) (which it did not), the Taxing Entities lack standing under § 12-4-535.

II. The ALC Properly Held that the Department’s Historical Inability to Meet the June 1st Deadline to Make Exemption Decisions Does Not Mean Taxpayers’ Exemption Requests Must be Denied.

The Association floods the Court with factually unsupported policy arguments to mask that

⁵ The statute presumably first requires a response from the county before a case can be filed in the hope that the county and Department can share each other’s positions and resolve the issue without rushing to court. The Association cites to no law that supports ignoring these clear statutory requirements.

(1) it is not addressing the critical question—what happens when the Department does not meet its June 1st deadline in S.C. Code Ann. § 12-4-710—and (2) it is asking the Court to read § 12-4-710, which applies to all taxpayers and all but one of the dozens of property tax exemptions in § 12-37-220, as imposing a rule whereby taxpayers who timely apply for exemptions will nonetheless be automatically denied the exemption if the Department does not meet the June 1st deadline.

A. The Association’s Interpretation of the Statute as Barring Taxpayers from Receiving an Exemption if the Department Misses the June 1st Deadline would Require the Court to Add Language Not Contained Therein.

The ALC correctly identified the critical question as follows: “[W]hat effect does the Department’s failure to meet this statutory deadline to notify the counties have on the exemptions, if any?” Am. Final Order at 97. The ALC noted that nothing in § 12-4-710 or elsewhere says what happens when the Department misses its June 1st deadline, and the ALC correctly concluded that the Department’s failure to meet its deadline would neither (a) strip the Department of its authority to grant the exemption, nor (b) cause a taxpayer, who properly applied for an exemption, to lose its right to the exemption. Am. Final Order at 97-98. The Association ignores the ALC’s reasoning and analysis in its entirety and instead simply asks the Court to find that “the ALC’s ultimate decision on this issue was in error.” Amicus Brief at 9.

The Association’s argument would require the Court to insert language into § 12-4-710 that is not contained in the text as to the effect of the Department’s failure to meet its deadline. Specifically, accepting the Association’s argument would have the effect of inserting the following *sentence* at the end of § 12-4-710: “If the department fails to advise the appropriate county official by June first of its determination that any property qualifies for exemption from local property taxes, such property shall not qualify for exemption from local property taxes.” Further evidence of the argument’s flaws is seen by the countless unanswered questions caused by the “revised”

version § 12-4-710. For what tax year or years is the property ineligible? If that taxpayer still has time to apply for an exemption pursuant to S.C. Code Ann. § 12-4-720(A)(1), does the taxpayer file another application for exemption? Does the taxpayer have a remedy against the Department? Can the taxpayer do anything to ensure the Department notifies the relevant counties by June 1st? The absence of any statutory language calling for this penalty on taxpayers when the Department cannot meet its deadline, particularly when combined with the absence of any statutory language addressing all of the questions that would arise if such a penalty was imposed, is compelling evidence that the Legislature intended no such result.

B. The Association's Interpretation of the Statute is Non-Sensical.

The Association's argument that § 12-4-710 imposes a rule whereby taxpayers who timely apply for exemptions forfeit the exemptions when the Department fails to meet its June 1st deadline is non-sensical in light of (at a minimum) § 12-4-720(A)(1). Recognizing that § 12-4-720(A)(1) allows taxpayers to request exemptions for prior tax years and that the RPA clearly envisions that final determinations on exemption requests could take years, the Association appears to interpret § 12-4-710 as requiring the Department to notify counties of its initial determination (as opposed to final determination) by June 1st of the year the exemption request was received (as opposed to the tax year for which the exemption request is applicable). Amicus Brief at 6. Thus, the Association's argument in its entirety is that § 12-4-710 imposes a rule whereby (1) the Department must notify counties of its initial determination by June 1st of the year the exemption request was received, and (2) the Department's failure to do so causes the taxpayer to forfeit the exemption. Amicus Brief at 6-9. In light of the following, this argument cannot be correct.

Section 12-4-710 applies to all but one of the dozens of property tax exemptions found in S.C. Code Ann. § 12-37-220. Taxpayers may apply for these exemptions on any day of the calendar

year, and up to the later of three years from the time a return was filed (for those taxpayers who file property tax returns) or two years from the date the tax was paid. *See* S.C. Code Ann § 12-4-720(A)(1). For timely applications submitted after June 1st in a calendar year, it is impossible to notify the impacted county of the initial decision by June 1st of that year. In addition, under the Association's argument, a taxpayer on May 30, 2021, could file a timely application for exemption and refund request for tax year 2020 but forfeit its right to the exemption if the Department fails to notify the impacted county of the Department's initial decision within 24 hours of receiving the application. Yet, at the same time, that very same taxpayer has until at least January 15, 2023, to timely apply for the exemption and refund for tax year 2020. The unanswered questions flowing from the Association's argument are endless.⁶ In sum, § 12-4-710 unquestionably applies to taxpayers governed by § 12-4-720(A)(1), and the Association's argument is non-sensical and incompatible with § 12-4-720(A)(1).

Further, the same is true if the Association tries to reverse course and argue § 12-4-710 requires the Department to make a *final* determination by June 1st of the year in which the exemption application is received. In other words, § 12-4-710 would still unquestionably apply to taxpayers governed by § 12-4-720(A)(1), and the Association's complete argument is non-sensical and incompatible with § 12-4-720(A)(1).

⁶ To name a few, should the taxpayer in the previous example file another identical application for tax year 2020 (and if yes, how does the taxpayer know whether the Department notified the county by June 1st, and how does the taxpayer know that it should file another application if the Department did not provide the notice)? If a taxpayer applies for an exemption between June 1st and July 1st, should the Department immediately notify the impacted county of its initial decision in case it impacts the budgeting process? Does the answer change if the Department makes a final decision before July 1st?

Thus, regardless of whether § 12-4-710 requires the Department to notify counties of its initial or final determination by June 1st, the outcome is the same—the Department’s failure to meet its deadline does not result in the taxpayer forfeiting the exemption.

C. The Association’s Policy Arguments are Meritless.

The Association attempts to hide the fundamental flaws in its argument by repeating the Taxing Entities’ argument that § 12-4-710 is for the benefit of the counties, inaccurately describing, as the Taxing Entities did, the facts, analysis, and holding in *TNS Mills*, and dramatically claiming that county budgets will “potentially” be wrecked if the Department is allowed to ignore the June 1st deadline. Amicus Brief at 7-8. The Farmers Entities will not repeat their responses on the first two issues as those have been thoroughly briefed. *See* Farmers Response at 43-47.

However, as to the third issue, there is no need to speculate about the “potential” impact of allowing the Department to fail to follow the June 1st deadline because it has not met that deadline for decades with no complaints. *See, e.g.*, Farmers Response at 45-46; SCDOR Brief at 39-40. The Association represents the interests of each of South Carolina’s forty-six counties, yet it fails to provide even a single example of a county complaining of the Department’s failure to comply with the June 1st deadline or a single example of any actual problem caused by the Department’s routine inability to comply with that deadline. The counties clearly have mechanisms allowing them to operate when they must issue property tax refunds (due to refund claims that are granted or payments under protest that are determined in the taxpayer’s favor) despite not receiving notice of exemption determinations (whether initial or final) by June 1st. For instance, S.C. Code Ann. § 6-1-320(B)(1) allows counties to raise millage rates for any budget deficits, which counties likewise may do under subsection (B)(3) in order to comply with a court order or decree.

Moreover, in this case, the Taxing Entities by the end of 2012 had notice and were annually reminded that FTCC (and later Diversified) was in an ongoing, unresolved property tax dispute with the Department that related to the exemption provided by § 12-37-220(B)(10), which clearly could result in a refund owed to FTCC and Diversified for the property taxes already paid if the dispute was resolved in favor of FTCC and Diversified. Thus, on June 1st of 2013 and every June 1st of every year thereafter, the counties knew that FTCC and Diversified may not be liable for the property taxes continuously paid each year under protest, they knew FTCC and Diversified may be entitled to a refund, and they received notice from 2016 forward that the Department had granted the exemption. Nonetheless, each year, they did nothing to take that information into account for their budgets for the following year. *See* Farmer Response at 45-46; SCDOR Brief at 38-41; Am. Final Order at 34, 95.

It is not even clear what impact, if any, issuing refunds to FTCC and Diversified in this matter would have on the Taxing Entities' current budgets other than decreasing them by the amounts of the refunds, or whether they would even need to increase millage rates because of the refunds. The Taxing Entities, like the Association, regularly describe the "potential" problems they may face but have yet to describe any *actual* hardships that would be caused by returning to FTCC and Diversified the taxes they did not owe. However, what is crystal clear is that the Taxing Entities beginning in 2013 had the ability to plan their budgets year after year to ensure the budget could sufficiently cover refunds that may be owed to FTCC and Diversified.

The Association admits that counties have the ability to adjust their budgets in a variety of ways as well as raise millage rates, but it implies there is some aspect of unfairness or inequity if a county must take any of those actions. Amicus Brief at 8. That is absurd. The Association is effectively arguing that some taxpayers should be punished and pay more than their fair share of

property tax when the Department cannot meet its June 1st deadline, which naturally causes the remaining taxpayers to pay less than their fair share of property taxes needed to support the county budgets. The Association argues for an interpretation of § 12-4-710 that punishes some of a counties' very own taxpayers for the benefit of others. In this case, FTCC and Diversified have done nothing wrong, yet have been forced to pay property taxes they do not owe for many years, thus allowing other taxpayers in those counties to continuously pay less than their fair share of taxes. A refund of taxes paid means the taxes were not owed. One cannot legitimately argue that refunding FTCC and Diversified for property taxes that were not actually owed is somehow unjust or inequitable because the counties may have to adjust their budgets or temporarily increase the millage rate and taxes due from both FTCC and Diversified as well as other taxpayers, the latter of which have been receiving a discount for years to the detriment of FTCC and Diversified. If issuing refunds *actually* would cause the Taxing Entities to face some still-unknown hardship or require them to increase millage rates and taxes, and if the Taxing Entities are troubled by that those potential outcomes, then they should have properly managed their tax receipts paid under protest to avoid this foreseeable result.

In sum, neither the plain language of the statute nor the misguided policy arguments of the Association support an interpretation that the Department's inability to meet the June 1st deadline to notify the counties of an exemption decision would somehow strip the Department of its authority to grant exemptions or cause a taxpayer, who has properly applied for an exemption, to lose its right to the exemption. Thus, the ALC's decision that the Department's failure to meet the June 1st deadline in this case did not bar FTCC and Diversified from receiving the exemption should be affirmed.

CONCLUSION

For the reasons set forth above, this Court should reject the arguments made by the Association in its Amicus Brief as duplicative, inaccurate, lacking merit and unpersuasive.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: Bryson M. Geer

Bryson M. Geer
SC Bar No. 13606
E-Mail: bryson.geer@nelsonmullins.com
John C. von Lehe, Jr.
SC Bar No. 5719
E-Mail: john.vonlehe@nelsonmullins.com
151 Meeting Street / Sixth Floor
Post Office Box 1806 (29402-1806)
Charleston, SC 29401-2239
(843) 853-5200

Miles E. Coleman
SC Bar No. 78264
E-Mail: miles.coleman@nelsonmullins.com
2 W. Washington St. / Fourth Floor
Post Office Box 10084 (29603-0084)
Greenville, SC 29601
(864) 250-2300

Willian E. DuRant, Jr.
SC Bar No. 1808
Attorney at Law
E-Mail: gdurant@legaloff.net
1170 Old West Liberty St., Suite 1
Sumter, SC 29150
(803) 774-5323

*Attorney for Respondents/Appellants Farmers Telephone
Cooperative, Inc., FTC Communications, LLC and FTC,
Diversified Services, LLC*

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