

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson III, Administrative Law Judge

Case No. 10-ALJ-17-0270-CC

Duke Energy Corporation..... Appellant,
v.
South Carolina Department of Revenue Respondent.

APPELLANT'S DESIGNATION OF MATTER ON REPLY
AMENDING INITIAL DESIGNATION

Appellant Duke Energy Corporation submits this amended Designation of Matter to be included in the Record on Appeal. This amended Designation both eliminates certain extraneous documents listed in the initial Designation and includes relevant items that had not been designated originally. Accordingly, the Appellant amends the initial Designation and designates the following matters:

1. Petitioner's Trial Exhibits 1 through 24 (Duke's Amended South Carolina Tax Returns for years 1978 – 2001)
2. Petitioner's Trial Exhibit 25 (Letter dated February 12, 2003 from the Department of Revenue to Duke denying refund claims)
3. Petitioner's Trial Exhibit 26 (Letter dated March 13, 2003 from Duke protesting denial)
4. Petitioner's Trial Exhibit 27 (Letter dated April 30, 2003 from Jan Steensen Crangle to Craig Fields re appeal of Department of Revenue's findings)

5. Petitioner's Trial Exhibit 28_1 (Cooper Monroe's field notes for audit December 1-5, 2003)
6. Petitioner's Trial Exhibit 28_2 (State Audit Tracker for Duke Energy State Income Tax dated February 18, 2003)
7. Petitioner's Trial Exhibit 29 (Department of Revenue's Determination dated, February 4, 2010)
8. Petitioner's Trial Exhibit 30 (Duke's Notice of Request for Contested Case Hearing, dated March 4, 2010)
9. Petitioner's Trial Exhibit 31 (Department of Revenue's Prehearing Statement, dated March 31, 2010)
10. Petitioner's Trial Exhibit 32 (Department of Revenue's Amended Prehearing Statement, dated November 30, 2010)
11. Petitioner's Trial Exhibit 33 (Duke's Products and Services)
12. Petitioner's Trial Exhibit 34 (Dhiaa Jamil's CV)
13. Petitioner's Trial Exhibit 35 (Duke's 10-K for fiscal year ending December 31, 2001)
14. Petitioner's Trial Exhibit 36 (Public Service Commission Report for 2010 – 2012)
15. Petitioner's Trial Exhibit 37 (Service Commission of SC Proposed Order, dated October 25, 1991)
16. Petitioner's Trial Exhibit 38 (PSC Direct Testimony of Dhiaa M. Jamil, dated 2009)
17. Petitioner's Trial Exhibit 43 (Dr. Papapolymerou's CV)
18. Petitioner's Trial Exhibit 49_B-1 through 49_B-24 (Form 10-Ks for fiscal years ending December 31, 1978 through December 31, 2001)
19. Petitioner's Trial Exhibit 50 (Dr. Pomp's responses to interrogatories, dated September 23, 2011)
20. Waiver Forms FS-43
21. Department of Revenue's requests to extend the audit, 1989 – 2001
22. IRS' Final Determination with respect to tax years 1984 and 1986 through 1989, dated September 23, 1992

23. IRS' Final Determination with respect to tax years 1990 and 1991, dated May 11, 2001
24. IRS' Final Determination with respect to tax years 1992 and 1993, dated July 17, 2001
25. Correspondence between Duke Energy and the Department of Revenue re Duke's intention to file amended tax returns, March and July 2002
26. Department of Revenue's Report of Field Audit, dated August 8, 2002
27. Form SC870AD – Offer of Waiver of Restrictions on Assessment and Collection of Additional Tax or Acceptance of Overassessment, dated August 13, 2002
28. Consent Order, dated August 8, 2003
29. Duke Energy's Protest / Application for Appeal
30. Duke Energy's Prehearing Statement, dated April 1, 2010
31. Department of Revenue's Response to Duke Energy's First Requests for Production of Documents
32. Affidavit of Sherry Love, dated December 2010
33. Affidavit of Rickey McCarver, dated January 7, 2011
34. Excerpts from the Deposition Transcript of Joe Southard, dated December 2, 2011
35. Excerpts from the Deposition Transcript of Jan Urban, dated December 21, 2011
36. Excerpts from the Deposition Transcript of Glenn J. Robinson, dated January 4, 2012
37. Excerpts from the Deposition Transcript of Dr. Ioannis "John" Papapolymerou, dated January 11, 2012
38. Duke Energy's Motion to Consolidate, dated January 14, 2012
39. Excerpts from the Deposition Transcript of Dhiaa M. Jamil, dated January 17, 2012
40. Excerpts from the Deposition Transcript of Ronald W. Urban, dated March 14, 2012


41. Department of Revenue's Motion for Summary Judgment and Memorandum in Support, dated April 20, 2012
42. Affidavit of Marvin N. Davant, dated May 16, 2012
43. Affidavit of Robert K. Anderson, dated May 17, 2012
44. Duke Energy's Cross-Motion for Summary Judgment and Memorandum in Opposition to the South Carolina Department of Revenue's Motion for Summary Judgment and in Support of Duke Energy's Cross-Motion for Partial Summary Judgment, dated May 21, 2012
45. Duke Energy's Post-Hearing Memorandum of Law, dated June 28, 2012
46. Affidavit of T. Cooper Monroe, III, dated June 28, 2012
47. Order Granting Summary Judgment in Part and Denying Summary Judgment in Part, dated August 9, 2012
48. Duke Energy's Motion for Reconsideration of the Court's Order Granting the Department of Revenue's Motion for Summary Judgment, dated August 20, 2012
49. Department of Revenue's Pre-Trial Memorandum, dated August 27, 2012
50. Excerpts from the Trial Transcript, dated September 5-6, 2012
51. Amended Order Granting Summary Judgment in Part and Denying Summary Judgment in Part, dated October 11, 2012
52. Order Denying Motion for Reconsideration in Part and Granting Reconsideration in Part dated October 11, 2012
53. Final Order and Decision, dated November 2, 2012
54. Duke Energy's Motion for Reconsideration of the Court's Final Order and Decision, dated November 12, 2012
55. Amended Final Order and Decision, dated December 4, 2012
56. Return File Date Chart
57. Waivers Schedule

Appellant Duke Energy Corporation designates the following additional materials to the Record on Appeal:

1. Excerpts from the Deposition Transcript of Sarah G. Major, dated March 14, 2012
2. Excerpts from the Deposition Transcript of Sherwood Lee Love, dated November 22, 2011
3. Excerpts from the Motion for Summary Judgment Hearing Transcript, dated June 26, 2012
4. SCDOR Response to Questions by Court, dated July 13, 2012
5. Suspension Notice, dated August 29, 2012
6. Notice of Appeal, dated October 9, 2012
7. Amended Notice of Appeal, dated October 23, 2012
8. Reconsideration Order, dated December 4, 2012
9. Notice of Appeal, dated January 3, 2013
10. IRS Notice

I certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully submitted,



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May 16, 2013
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