COMMITTEE REPORT

March 21, 2018

**S. 1128**

Introduced by Senators Rankin, Hutto, Massey, McElveen, Sabb, Gambrell and Climer

S. Printed 3/21/18--S.

Read the first time March 15, 2018.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Joint Resolution (S. 1128) to authorize the Executive Director of the Office of Regulatory Staff to file an action in circuit court to require the production of documents or witnesses in certain circumstances if an entity has, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the joint resolution, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1 (A). The Executive Director of the Office of Regulatory Staff, which includes the acting Executive Director, if applicable, has the authority to file an action against an entity in circuit court to obtain injunctive relief requiring the production of documents or witnesses. Such action may be brought under the following circumstances:

(1) An entity has provided goods or services, including but not limited to, plans, studies, and reports related to the design, construction, or operation of a facility located in South Carolina and that facility has been the subject of a proceeding concerning the Base Load Review Act;

(2) The Executive Director determines that the production of documents or witnesses from the entity described in subsection (A)(1) is necessary in order for the Office of Regulatory Staff to accomplish its responsibilities; and

(3) The entity that has provided goods or services as described in subsection (A)(1) has refused to provide the requested documents or witnesses.

(B) Any action must be filed in the county in which the facility is located.

SECTION 2. The relief that may be granted in an action described in SECTION 1 is an order requiring the production of documents, an order requiring the appearance of a witness or witnesses, an order allowing the Office of Regulatory Staff to take depositions of witnesses, or any combination thereof. Any order granting such relief must provide reasonable protections to the entity subject to the order, including that any depositions will be taken at a location convenient to the witnesses. In the event that a deposition is ordered, the Office of Regulatory Staff must give notice to the utility and any other party to any proceeding in which the deposition may be used, so that the utility and any such party will have an opportunity to appear and participate in the deposition.

SECTION 3. An action brought by the Executive Director pursuant to this Joint Resolution shall be given administrative priority by the Chief Administrative Judge for the circuit in which it has been brought and must be heard and decided as expeditiously as is consistent with due process.

SECTION 4. Anyone who fails to comply with a court order issued pursuant to SECTION 2 of this Joint Resolution may be found in contempt and fined in the discretion of the court.

SECTION 5. This joint resolution takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**A** **JOINT RESOLUTION**

TO AUTHORIZE THE EXECUTIVE DIRECTOR OF THE OFFICE OF REGULATORY STAFF TO FILE AN ACTION IN CIRCUIT COURT TO REQUIRE THE PRODUCTION OF DOCUMENTS OR WITNESSES IN CERTAIN CIRCUMSTANCES IF AN ENTITY HAS PROVIDED GOODS OR SERVICES TO A UTILITY FOR THE DESIGN, CONSTRUCTION, OR OPERATION OF A FACILITY THAT HAS BEEN THE SUBJECT OF A PROCEEDING CONCERNING THE BASE LOAD REVIEW ACT; TO PROVIDE THAT THE ONLY RELIEF THE COURT MAY ORDER IS FOR THE PRODUCTION OF DOCUMENTS, REQUIRING THE APPEARANCE OF WITNESSES, ALLOWING THE OFFICE OF REGULATORY STAFF TO TAKE DEPOSITIONS, OR A COMBINATION THEREOF; TO REQUIRE THE ACTION TO BE HEARD AS AND DECIDED AS EXPEDITIOUSLY AS CONSISTENT WITH DUE PROCESS; AND TO PROVIDE FOR PENALTIES FOR FAILURE TO COMPLY WITH A COURT ORDER ISSUED PURSUANT TO THIS JOINT RESOLUTION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1 (A). The Executive Director of the Office of Regulatory Staff, which includes the acting Executive Director, if applicable, has the authority to file an action against an entity in circuit court to obtain injunctive relief requiring the production of documents or witnesses. Such action may be brought when:

1. An entity has provided goods or services to a utility, as defined in South Carolina Code §58‑33‑220(20), for the design, construction, or operation of a facility located in South Carolina and that facility has been the subject of a proceeding concerning the Base Load Review Act;

2. The Executive Director determines that the production of documents or witnesses is necessary in order for the Office of Regulatory Staff to accomplish its responsibilities; and

3. The entity that has provided goods or services to the utility has refused to provide the requested documents or witnesses.

(B) Any action must be filed in the county in which the facility is located.

SECTION 2. The only relief that may be granted in an action described in SECTION 1 is an order requiring the production of documents, an order requiring the appearance of a witness or witnesses, an order allowing the Office of Regulatory Staff to take depositions of witnesses, or any combination thereof. Any order granting such relief must provide reasonable protections to the entity subject to the order, including that any depositions will be taken at a location convenient to the witnesses. In the event that a deposition is ordered, the Office of Regulatory Staff must give notice to the utility and any other party to any proceeding in which the deposition may be used, so that the utility and any such party will have an opportunity to appear and participate in the deposition.

SECTION 3. An action brought by the Executive Director pursuant to this provision shall be given administrative priority by the Chief Administrative Judge for the circuit in which it has been brought and must be heard and decided as expeditiously as is consistent with due process.

SECTION 4. Anyone who fails to comply with a court order issued pursuant to SECTION 2 of this Joint Resolution may be found in contempt and fined in the discretion of the court.

SECTION 5. This joint resolution takes effect upon approval by the Governor.

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