Cook v. Santee Cooper

South Carolina Public Service Authority

2023 Annual Compliance Report

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INTRODUCTION

Pursuant to the Settlement Agreement (the "Settlement Agreement" or the "Agreement") for *Cook v. S.C. Public Service Authority*, Case No. 2019-CP-23-6675, the South Carolina Public Service Authority ("Santee Cooper") submits its 2023 Annual Compliance Report ("2023 Report"). The Settlement Agreement requires Santee Cooper to provide an annual report to the Court and Central Electric Power Cooperative, Inc. ("Central") by April 30 of each year through 2030, establishing Santee Cooper's compliance with the terms of Sections IV.A and IV.B of the Agreement related to the Common Benefit Fund and Non-Cash Settlement (the "Rate Freeze"), respectively. (*See* Settlement Agreement Excerpts, Part IV.C, at 23, attached as Exhibit A.)

Santee Cooper, Central, and Class Counsel ("Parties") agreed on an outline of topics for the annual compliance report. (*See* Santee Cooper's Memorandum in Support of Final Approval, Exhibit C - Proposed Outline of Topics for Annual Compliance Report ("Outline of Report Topics"), attached as Exhibit B.) On April 30, 2021, Santee Cooper filed its first report, the 2020 Annual Compliance Report ("2020 Report"), providing detail on the topics in the Outline of Report Topics and demonstrating compliance with the terms of the Agreement. Likewise, Santee Cooper filed its second report, the 2021 Annual Compliance Report ("2021 Report"), on April 29, 2022, and filed its third report, the 2022 Annual Compliance Report ("2022 Report"), on April 28, 2023, both demonstrating compliance with the terms of the Agreement. Santee Cooper now files this 2023 Report to further show its continued compliance with the Settlement Agreement.

Regarding the Common Benefit Fund, Santee Cooper notes that it timely made all three installment payments to the Fund and recorded the payment to the balance sheet, and that no costs or expenses were recovered or deferred as a result of the recording. Santee Cooper also took steps to prepare for distributions of the settlement funds via bill credits to Class Members in 2023.

Regarding the Rate Freeze, Santee Cooper highlights that rates remain frozen for Central and Santee Cooper's residential, commercial, lighting, and industrial customers. As described further below, in this 2023 Report, Santee Cooper identified nine situations as Exceptions to the Rate Freeze (collectively, "Exceptions"):

1. Change in Law – Act 90, passed by the South Carolina General Assembly
2. Change in Law – Effluent Limit Guidelines ("ELG") regulation revisions regarding Flue Gas Desulphurization by the United States Environmental Protection Agency ("EPA")
3. Change in Law – Armed Services Board of Contract Appeals order regarding St. Stephen Rediversion Project and statement of position by Army Corp of Engineers
4. Fire – Foresight Coal Supply LLC Sugar Camp Mine Complex, and Change in Law pursuant to order of the Mine Safety and Health Administration
5. Catastrophic failure of equipment and Fire – V.C. Summer 1 Transformer Failure Fire
6. Named Storm – Hurricane Idalia
7. Change in Law – Federal Energy Regulatory Commission ("FERC") Order 881
8. Change in Law – FERC license issuance regarding Santee Cooper Hydroelectric Project No. 199
9. Act of God & Flood – Winyah Generating Station Rain Event

At present, the costs directly resulting from the listed Exceptions are $206,189,263.90 for 2023. The costs for the Exceptions identified in the 2020 through 2023 Annual Compliance Reports qualify to be deferred for collection in the future. In addition, regarding reporting on the Rate Freeze, Santee Cooper's costs and expenses did not exceed its revenue in 2023.

COMPLIANCE WITH THE *COOK* SETTLEMENT

I. Report time period and supporting information

This 2023 Report covers January 1, 2023 through December 31, 2023 (the "2023 Reporting Period"). Santee Cooper's fiscal year is January 1 to December 31, and it utilizes the FERC

Uniform System of Accounts and follows Generally Accepted Accounting Principles. (*See* 2023 Santee Cooper Annual Report, Note 1(B), at 40, attached as Exhibit C ("2023 Santee Cooper Annual Report").)

On March 25, 2024, Santee Cooper's Board of Directors received the report of its independent auditor, PricewaterhouseCoopers, LLP ("PwC"), on its annual financial statements and the 2023 Santee Cooper Annual Report. (*See generally id*.) As reflected in the 2023 Santee Cooper Annual Report, PwC found the following:

> [The] accompanying financial statements present fairly, in all material respects, the respective financial position of the business-type activities, and fiduciary activities of Santee Cooper as of December 31, 2023, and the respective changes in financial position, and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

(*Id.* at 12.) In addition to its audited annual financial statements, Santee Cooper identified records supporting compliance with Sections IV.A and IV.B of the Settlement Agreement, which are attached as exhibits to this Report.

II. Common Benefit Fund – Section IV.A

Section IV.A of the Settlement Agreement provides for a Common Benefit Fund to be funded by Santee Cooper and Dominion Energy, Inc. for the benefit of Class Members. Santee Cooper and Dominion agreed to make contributions to the Common Benefit Fund, with Santee Cooper's contribution paid in annual installments of $65 million in 2020, $65 million in 2021, and $70 million in 2022, each payable in the third quarter of the year. Santee Cooper agreed its contribution would not be included in its revenue requirements or otherwise passed on to its customers by way of increased rates or charges.

The Outline of Report Topics for the Annual Compliance Report identified the following items to be reported related to the Common Benefit Fund, each of which is addressed in this part of the Report:

1. Payment timely made by September 30th of 2020, 2021, and 2022

2. For 202[3] report[1]:
   a. Class allocation data
   b. Bill credits timeline provided

2. Recording and treatment of $200 million settlement
   a. Initial recording and treatment of $200 million
   b. Recording and treatment of 3 annual installments

(Outline of Report Topics, Exhibit B.)

A. Payment timely made by Santee Cooper

Section IV.A of the Settlement Agreement calls for the Settlement Administrator to manage the Common Benefit Fund pursuant to the terms of the Escrow Agreement. (Settlement Agreement, Part IV.A, at 20, Exhibit A.) As previously reported, Santee Cooper timely paid all three annual installments in 2020, 2021, and 2022. (*See* 2020-2022 Reports at Part II.A.) Santee Cooper thus has met these payment obligations.

B. Recording and treatment of Santee Cooper's contribution to the Common Benefit Fund

As previously reported, Santee Cooper expensed and recorded the full $200 million settlement liability in 2019. Santee Cooper subsequently paid the annual installments in 2020, 2021, and 2022, and in each of those years, recorded the entries to the balance sheet only. (*See*

[1] The Outline of Report Topics reflects that Santee Cooper will report on class allocation data and bill credits in its "2021 report." (Outline of Report Topics, Exhibit B.) Under the established nomenclature for the reports, this information was provided in the 2020 Report. While the Outline of Report Topics does not contemplate such information outside of the 2020 Report, Santee Cooper provided information regarding bill credits in the 2022 Report. Similarly, and consistent with the prior reports and Common Benefit Fund Process, this Report provides information regarding bill credits but does not include class allocation data as no such allocations were made.

2020 Report, Part II.C.1-2; 2021 Report, Part II.B; 2022 Report, Part II.B.) No costs or expenses were recovered or deferred as a result of recording the payments in this manner.

C. Distribution of settlement funds to Class Members

Pursuant to the Amended Final Order and Judgment ("Amended Final Order"), as entered by the Court on July 31, 2020, Santee Cooper and the Electric Cooperatives were to make two distributions to the Class Members of the Common Benefit Fund. Santee Cooper made its first distribution to Class Members in November 2020 in the form of bill credits. (*See* 2020 Report, Part II.B.2.) Santee Cooper made its second distribution to class members via bill credits in February 2023. Pursuant to the Order Approving Plan for Further Administration and Subsequent Distributions of Settlement, as entered by the Court on December 13, 2022, Santee Cooper made a third distribution via bill credits to the Class Members in October of 2023.

As further background, the Settlement Agreement provided that within 60 days of Santee Cooper's third annual installment (the $70 million payment), the Settlement Administrator, Santee Cooper, and the Electric Cooperatives were to provide Class Members with their payments via check or bill credit, making the deadline to do so November 25, 2022. On November 17, 2022, the Parties submitted a Consent Motion for Approval of Plan for Subsequent Settlement Distributions requesting an extension of the deadline to make the payment to Class Members. The extension was necessary to allow updates to the Class Members' payment information and because the Parties proposed an additional distribution via bill credit for Class Members who were current customers but did not cash their checks from the second distribution. (*See generally* Consent Motion for Approval of Plan for Subsequent Settlement Distributions, attached as Exhibit D.)

On December 13, 2022, the Court issued an Order Approving Plan for Further Administration and Subsequent Distributions of Settlement. (*See* Order Approving Plan for

Further Administration and Subsequent Distributions of Settlement, attached as Exhibit E.) In the Order, the Court extended the deadline for the Settlement Administrator to complete the mailing of checks to March 6, 2023, and the deadline for Santee Cooper and the Electric Cooperatives to complete the application of bill credits to March 18, 2023, for the second distribution. (*Id.* at 7.) Per the Order, Class Members whose pro-rata share of the distribution was equal to or less than $50.00 now are eligible for a bill credit.[2] (*Id.* at 6.) The Order further authorized Santee Cooper and the Electric Cooperatives to complete a third distribution via bill credit, regardless of the pro-rata share of distribution, to Class Members who were current customers and did not cash their checks after the second distribution. (*Id.* at 7.)

1. Second distribution via application of bill credits

On February 15, 2023, the Settlement Administrator provided a file to Santee Cooper identifying 49,521 accounts for which Santee Cooper would issue bill credits.[3] (See Email from Felix Mora to Donna Tillis, Cook v. Santee Cooper – 21 Bill Credit Files (Feb. 15, 2023) (enclosing excerpt of Santee Cooper bill credits chart), attached collectively as Exhibit BBB.) Santee Cooper applied a credit to 44,691 active customer accounts on February 23, 2023. (*See* Email from Stephanie Burgess to Donna Tillis, Cook - Bill Credit Application (Apr. 12, 2024), attached as Exhibit F; *see also* February 2023 chart of credits applied to active accounts, attached as Exhibit G.) During the application process, Santee Cooper identified 4,830 accounts that were no longer active, which meant that instead of bill credits, these accounts would receive checks. A list of these inactive accounts was sent to the Settlement Administrator on March 2, 2023, so the

[2] Under the terms of the Settlement Agreement, Class Members would receive a bill credit if their pro-rata share of the distribution was less than $25.00. (Settlement Agreement, Part V.D.1, at 28.)

[3] Per the terms of the Order Approving Plan for Further Administration and Subsequent Distributions of Settlement, the Settlement Administrator issued checks to Class Members who were not eligible to receive bill credits.

Settlement Administrator could issue checks. (*See* Email from Donna Tillis to Jeff Cronkhite, Cook Settlement – Inactive Accounts (Mar. 2, 2023) (enclosing spreadsheet of credits not applied), attached collectively as Exhibit H.) The 44,690 Class Members who received bill credits plus the 4,830 inactive accounts whose information was provided to the Settlement Administrator equals the 49,521 identified in the data sent by the Settlement Administrator to Santee Cooper on February 15, 2023.

The bills of a sample of retail customers are attached to show how the credits appeared to customers when they were applied during the second distribution. (*See* Santee Cooper Customer Bills for February 2023 Credit, attached as Exhibit I.)

2. Third distribution via application of bill credits

After the second distribution, the Settlement Administrator identified the Class Members who did not cash their checks. As authorized by the Order Approving Plan for Further Administration and Subsequent Distributions of Settlement, the Parties took steps to issue a third distribution to these customers via a bill credit if the customer still had an active account and a credit equal to or less than $50.00.

On October 13, 2023, the Settlement Administrator provided a file to Santee Cooper identifying 8,568 accounts for which Santee Cooper would issue bill credits. (*See* Email from Felix Mora to Donna Tillis, Cook v. Santee Cooper – Bill Credit File for Santee Cooper (Oct. 13, 2023) (enclosing excerpt of Santee Cooper bill credits chart), attached collectively as Exhibit J.) Based on the information from the Settlement Administrator, Santee Cooper provided a credit to 8,427 active customers on bills on October 26, 2023. (*See* Email from Stephanie Burgess to Donna Tillis, Cook - Bill Credit Application (Apr. 12, 2024), Exhibit F; *see also* October 2023 Chart of Credits Applied to Active Accounts, attached as Exhibit K.) During the application process, Santee Cooper identified 141 accounts that were no longer active and thus could not receive a bill credit. A list of these inactive accounts was sent to the Settlement Administrator on November 6, 2023. (*See* TitanFile transfer (Nov. 6, 2023) (enclosing chart of credits not applied), attached collectively as Exhibit L.) Santee Cooper also sent the funds associated with the 141 unapplied credits to the Settlement Administrator on November 9, 2023. (*See* Wire Confirmation, Nov. 9, 2023, attached as Exhibit M.) The 8,427 Class Members who received bill credits plus the 141 inactive accounts whose information was provided to the Settlement Administrator equals the 8,568 identified in the data sent by the Settlement Administrator to Santee Cooper on October 13, 2023.

The bills of a sample of retail customers are attached to show how the credits appeared to customers when they were applied during the third distribution. (*See* Santee Cooper customer bills for October 2023 Credit, attached as Exhibit N.)

3. Additional distribution efforts

After the third distribution, the Settlement Administrator determined that there were still a number of Class Members with inactive accounts with Santee Cooper and the Electric Cooperatives who did not cash their checks. Because the accounts are inactive, Santee Cooper cannot provide any further distribution by way of bill credits. The Settlement Administrator and Class Counsel are in the process of identifying alternative means for providing those Class Members with a distribution. Should such means involve further action by Santee Cooper, it will provide a summary of its distribution efforts in future reports.

III. Non-Cash Settlement – Settlement Agreement, Part IV.B

Section IV.B of the Agreement provided for Santee Cooper to implement "a rate freeze for the benefit of Class Members consistent with the rates projected in the Reform Plan, beginning in

2020 upon approval of the Agreement and extending through the end of 2024 (the "Rate Freeze Period")." (Settlement Agreement, Part IV.B, at 21, Exhibit A.) Schedule A to the Settlement Agreement identifies the fixed rate components and amounts chargeable to Central, and Schedule B lists the frozen rates and rate schedules for retail customers and municipal customers whose rates are based on Santee Cooper's Municipal Light and Power Rate. Further, Santee Cooper agreed "not to defer any costs and expenses incurred or otherwise appropriately attributable to any year during the Rate Freeze Period to any other year or years during or after the Rate Freeze Period, except that Santee Cooper *may defer* to rates charged in years after the Rate Freeze Period just and reasonable costs and expenses incurred during the Rate Freeze Period directly resulting from" a list of circumstances. (*Id.* at 22 (emphasis added).) A deferral of costs or expenses under this provision shall be reported in the annual compliance report. (*Id.* at 23.)

The Outline of Report Topics for the Annual Compliance Report identified the following information to be reported for the 2023 Reporting Period related to the Non-Cash Settlement, which are addressed in this part of the Report:

2. Posting of frozen rates on web site – Frozen rate schedules and Schedule B[4]

3. Rates frozen for Central and for Santee Cooper's Residential, Commercial, Lighting, and Industrial customers

4. If any exceptions occur, identification of potential instances of exceptions, including a description of the exception and the associated amount for that year

5. Through 2024, a comparison of annual revenues and costs (revenue requirements)

(Outline of Report Topics, Exhibit B.)

[4] The Outline of Report Topics identified the board resolution adopting the Rate Freeze as the first item to be addressed, and it was included with the 2020 Report.

A. Posting of frozen rates on website – Frozen rate schedules and Schedule B

As specified in the Outline of Report Topics, Santee Cooper reports on the posting of frozen rates on the website. As indicated in the 2020, 2021, and 2022 Reports, the frozen rates and charges were posted on Santee Cooper's website beginning July 27, 2020, and continued to be posted on the same website page through early 2023. (*See* 2020-2022 Report at Part III.A (attaching as an exhibit screenshots of https://www.santeecooper.com/About/Increasing-Value/Rates/Index.aspx, hereinafter, "Increasing Value Page").) The Increasing Value Page indicated that "Santee Cooper will freeze most customer rates from August 2020 through December 2024," and also included a link to the *Cook* Settlement Agreement, which included the frozen rate schedule and Schedule B. (*Id.*) The information continued to be posted on the Increasing Value Page until February 20, 2023, when Santee Cooper launched its redesigned website.

After the redesigned web site was launched, Santee Cooper continued to report that "Santee Cooper is freezing most customer rates from August 2020 through December 2024" on its "Rates" webpage, along with rate schedules. (*See* screenshot of "Rates" webpage, https://www.santeecooper.com/rates/, attached as Exhibit O.[5]) On April 19, 2023, Santee Cooper included "Cook Settlement Frozen Rates" on the bottom of its site, which links to the Resolution Authorizing Implementation of Settlement Including Rate Freeze for *Cook* & Other V.C. Summer Litigation for Claims. This resolution includes the frozen rates and Schedule B from the *Cook*

[5] Website users had access to all rates throughout 2023 on the "Rates" webpage, along with a notice that most customer rates were frozen. Between February 20, 2023 and April 18, 2023, the frozen rates and Schedule A of Central's frozen rates in the form attached to the Settlement Agreement were not posted on the website.

Settlement Agreement. (*See* screenshots of the "Cook Settlement Frozen Rates" link at the bottom of the webpage and the posting of the frozen rates and charges, attached as Exhibit P.)

B. Rates frozen for Central and residential, commercial, lighting, industrial, and affected municipal customers

Santee Cooper froze rates as to its retail and affected municipal customers for bills rendered as of August 16, 2020, and as to Central for usage beginning August 1, 2020. Part IV.B of the Settlement Agreement requires Santee Cooper to "provide a rate freeze for the benefit of Class Members consistent with the rates projected in the Reform Plan, beginning in 2020 upon approval of this Agreement and extending through the end of 2024." (Settlement Agreement, Part IV.B, at 21, Exhibit A.) Schedule A of the Settlement Agreement identified the components of Central's rates that would be frozen as well as the amounts of those frozen rates. Schedule B identified the affected rate schedules and established the frozen rates for the adjustable clauses.

1. Retail Rate Freeze

The Rate Freeze was applied to residential, commercial, lighting, industrial, and affected municipal customers for bills rendered on or after August 16, 2020. Santee Cooper's Board of Directors previously adopted the various rate schedules, some of which include variable charges through the Fuel Adjustment, Demand Sales Adjustment, and Economic Development Sales Adjustment. Schedule B of the Settlement Agreement specified the frozen rate schedules and the frozen amounts for these three adjustable clauses.

As reported in the 2020 Report, the Rate Freeze was implemented as to the residential, commercial, and lighting customers by Santee Cooper manually inputting the frozen amounts for the adjustable clauses into its Customer Care and Billing system, and likewise by manually inputting the frozen amounts for the adjustable clauses into the Industrial Billing system for the Industrial customers. (*See* 2020 Report, Part III.B.1, at 11-12.) The Fuel Adjustment is the only frozen adjustable clause applicable to affected municipal customers, and this value was manually entered into the Industrial Billing system. (*Id.*) The remaining, non-adjustable rates from the frozen rate schedules were not altered.

The Rate Freeze remains in effect as reported in the 2020 through 2022 Reports. Examples of 2023 bills for affected customers are attached as follows:

- Industrial customer bill for L-17 and I-17 rates, attached as Exhibit Q;
- Residential, commercial, and lighting customer bills, attached as Exhibit R; and
- Municipal customer bills for Georgetown, Bamberg, and Seneca, attached as Exhibit S.

2. Central Rate Freeze

The Rate Freeze was applied to Central's service for usage on and after August 1, 2020. Accordingly, the first invoice issued to Central for service on or after August 1, 2020, was its invoice dated September 2, 2020, for service rendered August 1 – August 31, 2020. Schedule A of the Settlement Agreement specified the frozen rate components for Central.

As reported initially in the 2020 Report, the frozen components of Central's rates were entered directly into the Central Billing System. Those components are the Supplemental Capacity Cost Rate, Supplemental Energy-Related Fixed Cost Rate, Supplemental Non-Fuel Variable Fixed Cost Rate, Transmission Service Rate, Delivery Service Charge, and the Monthly Supplemental Fuel Cost Rate from Schedule A of the Settlement Agreement. (*See* 2020 Report, Parts III.B.2, at 12 (attaching Central Billing Screenshots as Exhibit X).) Central's invoices from January 2023 to December 2023 showing rates consistent with Schedule A are attached. (*See* Central's 2023 Invoices, attached as Exhibit T.) In addition, after December 31, 2023, certain adjustments were made to Central's billing units related to various contexts. The changes to Central's billing units resulted in billing adjustments for their service during the Reporting Period. Central received these adjustments on its April 2024 invoice for March usage. (*See* Central's April 2024 Invoice, attached as Exhibit U.)

C. Exceptions identified for the period January 1, 2023 through December 31, 2023

While establishing the Rate Freeze, the Settlement Agreement also provides that "Santee Cooper may defer" certain just and reasonable costs and expenses incurred during the Rate Freeze Period to be collected after the Rate Freeze if those costs and expenses directly resulted from any of these circumstances:

- Change in Law (not initiated or advocated for by Santee Cooper).
- Named storm events, acts of God or the public enemy, flood, fire, strike, or catastrophic failure of equipment for reasons beyond Santee Cooper's control.
- Significant cyber security attacks or other security attacks outside of Santee Cooper's control.
- Changes in regulatory or governance requirements imposed by the Act 95 legislative process.
- Deviations in Central's actual loads (used for allocation of demand costs) as compared to Central's billing determinants used in the Reform Plan if such deviation exceeds +/- 4% on an annual (calendar) basis. For the avoidance of doubt, any exercise of Opt-Out rights by Central under the Coordination Agreement shall not be deemed to result in a change in load for purpose of this provision.
- If Santee Cooper's costs incurred after the date of execution of this Agreement are increased above those in the Reform Plan because Santee Cooper is not permitted to engage in forward hedging of fuel price solely by reason of restrictions imposed by the Act 95 legislative process and solely for the period of such restrictions imposed by the Act 95 legislative process.

(Settlement Agreement, Part IV.B, at 22-23, Exhibit A.) These items are referred to as "exceptions."

The following exceptions were identified for the 2020 through 2022 Reporting Periods:

Exception	2020	2021	2022
Change in Law – COVID-19	•	•	•
Change in Law – Act 90		•	•
Change in Law – ELG regulation revisions regarding Flue Gas Desulphurization by the EPA		•	•
Fire – Sugar Camp, and Change in Law pursuant to order of the Mine Safety and Health Administration		•	•
Catastrophic failure of equipment and Fire – VC Summer 1		•	•
Change in Law – Order regarding St. Stephen Rediversion Project		•	•
Change in Law and Events Beyond Control – Executive Orders and other actions related to Russian invasion of Ukraine and Public Enemy – Russian and President Vladimir Putin			•
Named Storms	•	•	•
Central Load Deviation – More than 4% below Reform Plan	•	•	

(*See* 2020 Report, III.C, at 12-17; 2021 Report, III.C, at 9-24; and 2022 Report, III.C, at 13-39.)

This Report reflects updates to exception costs reported for the 2022 Reporting Period related to Act 90 and Named Storm - Hurricane Ian. As detailed below, Act 90 costs are updated to account for additional IRP costs incurred in 2022 but invoiced and paid in 2023. (*See infra* Part III.C.1.f.) In addition, in the context of Named Storm – Hurricane Ian, a FEMA reimbursement resulted in a reduction of the costs. (*See infra* Part III.C.6.b.)

For the 2023 Reporting Period, Santee Cooper has identified nine situations qualifying as Exceptions, described further below:

Exception	**Amount (Jan. 1, 2023 – Dec. 31, 2023)**
1. Change in Law – Act 90	$2,599,642.22
2. Change in Law – ELG regulation revisions regarding Flue Gas Desulphurization by the EPA	$56,642,607
3. Change in Law – Order regarding St. Stephen Rediversion Project	$2,852,640
4. Fire – Sugar Camp, and Change in Law pursuant to order of the Mine Safety and Health Administration	$135,276,799
5. Catastrophic failure of equipment and Fire – VC Summer 1	$6,012,390.07
6. Named Storm – Idalia	$995,720.45
7. Change in Law – Federal Energy Regulatory Commission ("FERC") Order 881	$763,959.03
8. Change in Law – FERC license issuance regarding Santee Cooper Hydroelectric Project No. 199	$784,893.93
9. Act of God and Flood – Winyah Generating Station Rain Event	$260,612.20

Future events may affect the amounts listed above. In addition to the costs identified specific to each Exception, Santee Cooper also has costs of $20,697,408.65 directly resulting from the costs of debt incurred as to the *Cook* Exceptions Regulatory Asset that is based on previously reported exceptions. (*See infra* Part V.) In the future, Santee Cooper will update the Court regarding these Exceptions.

Santee Cooper monitored costs and expenses to ensure (1) costs and expenses were properly recorded in the appropriate time periods in accordance with Generally Accepted Accounting Principles, and (2) costs and expenses that did not qualify as an Exception were not deferred to periods outside of the Rate Freeze Period.

1. Change in Law – Act 90

As discussed in the 2021 Report, Act 90 was passed by a unanimous vote in both the South Carolina House and Senate and signed into law by Governor Henry McMaster on June 15, 2021. *See* H. 3194, Act No. 90, 124th Sess. §§ 8, 13, 14, 21 (S.C. 2021), S.C. Code Ann. §§ 58-31-240, 58-37-40, 58-4-51, 58-4-55. Act 90 addresses Santee Cooper's governance, debt, resource planning, and ratemaking, among other topics, and describes actions that Santee Cooper must take to comply with Act 90. Specifically, and as relevant to the 2023 Reporting Period, Act 90 subjects Santee Cooper to oversight of certain topics by the Joint Bond Review Committee ("JBRC"), the South Carolina Public Service Commission ("PSC"), and the Office of Regulatory Staff ("ORS"). Santee Cooper incurred costs and expenses during the 2023 Reporting Period because of its efforts to comply with this change in law.

a. JBRC Oversight

First, effective as of June 15, 2021, Act 90 requires Santee Cooper to obtain approval of the JBRC "[p]rior to issuing any (1) bonds, (2) notes, or (3) other indebtedness, including any refinancing that does not achieve a savings in total debt service." S.C. Code Ann. § 58-31-240(A)(1). The JBRC has the authority to approve, reject, or modify any such issuance. *Id.* Santee Cooper must submit transfers of any interest in real property to the JBRC and provide "an annual report regarding every transaction involving an interest in real property and executed during the preceding twelve months" by September 1.[6] *Id.* § 58-31-240(B). To comply with these provisions of Act 90, in 2021, Santee Cooper hired an employee. The costs for 2023 are for the employee's time as apportioned to JBRC compliance efforts.

[6] The reporting and other requirements of this item do not apply to encroachment agreements, rights of way, or lease agreements made by the Authority for property within the Federal Energy Regulatory Project boundary.

b. Public Service Commission Proceeding on Integrated Resource Planning

Act 90 also requires Santee Cooper to submit an Integrated Resource Plan ("IRP") to the PSC every three years, with its first IRP being due at the end of 2023. *Id.* § 58-37-40(A)(1), (3). The process imposed by Act 90 adds additional extensive requirements for Santee Cooper compared to the previous IRP framework. In 2023, Santee Cooper had costs associated with meeting Act 90's requirements related to stakeholder involvement and input; modeling and scenarios, such as software, consultants, and employees designated for IRP compliance; and finalizing, filing, and obtaining approval of the IRP.

During the 2023 Reporting Period, Santee Cooper continued the stakeholder input process required by Act 90 that began in 2022. Santee Cooper maintained and responded to public comment in the Santee Cooper IRP Input and Feedback Forum, developed to ensure that information and data regarding Santee Cooper's IRP work are available to all interested stakeholders. (*See* Santee Cooper IRP Input & Feedback Forum page, attached as Exhibit V.) Additionally, Santee Cooper had its fifth and final public stakeholder meeting on April 19, 2023 ("Meeting 5"). The series of meetings served as a primary form of engagement for the 2023 IRP process and were held virtually for convenience and accessibility to Santee Cooper's customers and stakeholders. (Santee Cooper About, Integrated Resource Plan 2023 IRP Stakeholder Process, attached as Exhibit W.) The presentations, participant Q&A, videos, and summary reports on Meeting 5 and prior meetings are available on Santee Cooper's IRP page on its website: https://www.santeecooper.com/About/Integrated-Resource-Plan/.

After the stakeholder process, Santee Cooper filed its IRP with the PSC on May 15, 2023. (Santee Cooper, IRP (May 15, 2023), available at PSC, Docket No. 2023-154-E, Id No. 315277.) On October 27, 2023, Santee Cooper supplemented the May 15, 2023 IRP with an addendum to include additional supplemental analysis performed by Santee Cooper in response to direct testimony filed by ORS on September 22, 2023 as well as Santee Cooper's rebuttal testimony. (Santee Cooper, IRP Addendum (Oct. 27, 2023), available at PSC, Docket No. 2023-154-E, Id No. 318606.) On February 15, 2024, the PSC issued a directive approving Santee Cooper's IRP.

To support Santee Cooper's development and finalizing of the 2023 IRP, Santee Cooper engaged consultants who played an integral role in the IRP process:

- **Astrape Consulting:** Astrape Consulting performed an effective load-carrying capacity ("ELCC") study and a resource adequacy assessment to inform Santee Cooper's IRP.

- **Duckworth Consulting:** Duckworth Consulting provided strategic and generation planning services to Santee Cooper to support the IRP.

- **GDS Associates:** GDS Associates reviewed Santee Cooper's load forecasting report presented at Meeting 5, assisted with preparing discovery responses related to load forecast data requests, and provided other services to support Santee Cooper's IRP.

- **MAU Workforce Solutions:** MAU Workforce Solutions provided support on Santee Cooper's IRP model development, managing data inputs and outputs from the model later used to conduct the IRP analysis.

- **nFront Consultants:** nFront Consulting advised Santee Cooper on the methodology and tools to be used for modeling in the development of portfolios to lead to a "preferred" IRP. Experts from nFront presented at Meeting 5, covering topics on which nFront had advised including cost comparison metrics, the resource portfolios studied, and other IRP initiatives.

- **Resource Innovations:** Resource Innovations assisted with the development of Santee Cooper's market potential study and provided support and program implementation services for Santee Cooper's energy efficiency programs.

- **Vanry Associates:** Vanry Associates assisted in planning and preparing for Meeting 5, sending notifications to those who registered for each Meeting, conducting the opening and close of the Meetings, and preparing a summary for each Meeting. (*See* Vanry Associates, Santee Cooper IRP 2023 Public Stakeholder Meeting #5 Summary (Apr. 19, 2023), attached as Exhibit X.)

Santee Cooper also engaged Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, Nelson Mullins Riley & Scarborough LLP, and Parker Poe Adams & Bernstein, to advise on legal matters related to the IRP process and filing of same.

c. Public Service Commission Proceeding on Competitive Procurement of Renewable Energy Program

The provisions of Act 90 provide that if Santee Cooper identifies a renewable energy need through its IRP or other planning process, Santee Cooper must request PSC approval for a program to engage in the Competitive Procurement of Renewable Energy ("CPRE"). *See* S.C. Code Ann. § 58-31-227. The process to apply for and obtain PSC approval is a new requirement for which Santee Cooper has incurred compliance costs. Act 90 also added requirements related to the inclusion of certain items in a solicitation, including two separate notice periods, pro forma purchase agreements, bid evaluation methodology, interconnection requirements, and study methodology detailing how bids without existing interconnection studies will be treated for purposes of evaluation in the solicitation notice. *Id.* § 58-31-227(C).

On November 1, 2022, Santee Cooper submitted its application to the PSC for approval outlining its CPRE framework to procure solar energy resources. (Santee Cooper, Application for Approval of Competitive Procurement Program (Nov. 1, 2022), available at PSC, Docket No. 2022-351-E, Id. No. 310902 (hereinafter, "Application").) On December 8, 2022, the PSC issued Directive Number 2022-830 containing the procedural schedule for the Application, including direct, rebuttal, and surrebuttal testimony deadlines and a hearing deadline. Directive Number 2022-830 also authorized the independent third-party, PA Consulting Group, Inc. ("PA"), to review Santee Cooper's Guidelines and provide its recommendations and report as to Santee Cooper's compliance with Act 90 requirements. (Directive Establishing Procedural Schedule (Dec. 8, 2022), available at PSC, Docket No. 2022-351-E, Id. No. 311757.)

Santee Cooper incurred costs in 2022 related to the development and filing of the Application in the amount of $85,266.35. Santee Cooper continued to incur costs in 2023 related to testimony presented to the PSC and hearings on June 12, 2023 and September 12, 2023; discovery exchanged between Santee Cooper and PA; and submittal of rebuttal testimony related to the PA's independent review. On November 30, 2023, the PSC approved Santee Cooper's Application and Guidelines for its CPRE program. (Directive Approving the Application (Nov. 30, 2023), available at PSC, Docket No. 2022-351-E, Id. No. 319647; *see also* Order Approving Application for a Competitive Procurement Program, Order No. 2024-2 (published Jan. 3, 2024).) With its CPRE program approved, Santee Cooper anticipates working to procure solar resources as indicated in its 2023 IRP. (*See* Santee Cooper, IRP at 143-44, PSC, Docket No. 2023-154-E, Id No. 315277.)

d. ORS

Santee Cooper also is required to evaluate and respond to document and information requests from ORS. S.C. Code Ann. § 58-4-55. ORS has other roles and responsibilities related to Santee Cooper created by Act 90. *Id.* § 58-4-51. To meet the obligations of Act 90, in 2021, Santee Cooper created a staff position that is allocated to this responsibility. The costs for 2023 are for the employee's time as apportioned to ORS compliance efforts.

e. Financial Impact of Compliance with Act 90 in 2023

In summary, the total amount for the Act 90 exception is $2,599,642.22, and the amounts for each component of the Act 90 costs are as follows:

Act 90 Component	Amount (Jan 1, 2023-Dec 31, 2023)
JBRC compliance	$4,002.19
PSC compliance – IRP	$2,450,044.50 • Consultants: $1,650,592.74 • Legal: $668,451.47 • Employees: $131,000.29
CPRE	$140,944.34
ORS compliance	$4,651.19
Total	$2,599,642.22

(*See* Costs Related to Act 90, attached as Exhibit Y.)

f. Update to Financial Impact of Compliance with Act 90 in 2022

In the 2022 Report, Santee Cooper identified $1,385,911.36 in costs resulting from the Act 90 exception. (*See* 2022 Report, Part III.C.2, at 17 (attaching 2022 Costs Related to Act 90 as Exhibit R).) As noted in the 2022 Report, Santee Cooper engages consultants to assist with its continuing obligations under Act 90. Based on the nature of these engagements, in 2022, Santee Cooper accrued $221,843.25 in costs related to IRP consultants that were not reported in the 2022 Report due to the invoices' dates and when those invoices were paid. Because the accounting records of Santee Cooper are maintained on an accrual basis in accordance with GAAP, however, Santee Cooper reports this update to the 2022 costs related to IRP consultants. In addition, as reported in Part III.C.1.c above related to the CPRE, Santee Cooper incurred costs in 2022 related to the development and filing of the Application in the amount of $85,266.35. The IRP and CPRE costs result in an additional $307,109.60 in 2022 costs related to Act 90, which adjusts the total exception amount for Change in Law – Act 90 for the 2022 Reporting Period to be $1,693,020.96.

2. Change in Law – ELG regulation revisions regarding Flue Gas Desulphurization by the EPA

As discussed in the 2022 Report, wastewaters from electrical generating units that operate using steam are regulated by the EPA through its publication of the steam electric power

Generating Effluent Guidelines and Standards ("Effluent Limit Guidelines" or "ELG"). ELGs are technology-based regulations based on the performance and costs of demonstrated wastewater control and treatment technologies.

On October 13, 2020, the EPA issued a new final rule imposing requirements related to Flue Gas Desulphurization ("FGD"). (*See* 40 CFR Part 423; *see also* 2022 Report, Parts III.C.3, at 18 (attaching U.S. Environmental Protection Agency, 2020 Steam Electric Reconsideration Rule as Exhibit S).) This rule imposed performance standards that require Santee Cooper to incur costs and expenses to install additional wastewater treatment systems for the Winyah and Cross generating stations. The EPA has also announced its intent to initiate a new rulemaking process which may revise the requirements introduced in the 2020 rule and necessitate additional investments for compliance. (*See* 2022 Report, Part III.C.3, at 18 (attaching U.S. Environmental Protection Agency, Steam Electric Power Generating Effluent Guidelines – 2023 Proposed Rule as Exhibit T).)

In 2021, Santee Cooper undertook efforts and costs to comply with the ELG rules which affected Santee Cooper's generation resources as provided in the 2021 Report. The Coordination Agreement between Santee Cooper and Central provides for the allocation of costs for generation resources. As previously reported, in 2022, to assure the availability of generation resources in the future, Santee Cooper and Central agreed that Santee Cooper would comply with the ELG rules through certain options for the Winyah and Cross generating stations. (*See* 2022 Report, III.C.3., at 18 (attaching Memorandum of Understanding and Agreement by and between South Carolina Public Service Authority and Central Electric Power Cooperative, Inc. related to the Treatment of Steam Electric Effluent Limitation Guidelines as Exhibit U).) Santee Cooper and

Central also agreed, in 2022, that ELG compliance costs arise from a "Change in Law" as an Exception to the Rate Freeze. (*Id.* at 4.)

In 2023, Santee Cooper incurred costs, including consultant costs, related to the design, engineering, materials, and construction of wastewater technology treatment systems for Cross and Winyah. Accordingly, the cost for 2023 related to compliance with the ELG rules is $56,642,607. (*See* 2023 ELG Expenditures, attached as Exhibit Z.)

3. Change in Law – Order regarding St. Stephen Rediversion Project

As reported in the 2022 Report and continuing throughout 2023, Santee Cooper is engaged in negotiations with the Army Corp of Engineers ("ACOE") regarding the amount owed by Santee Cooper for capacity charges. Because Santee Cooper is negotiating with ACOE, Santee Cooper accrued $2,852,640 in 2023. (*See* Account Reconciliation for St. Stephen Rediversion Project, attached as Exhibit AA.)

Because this Exception has been identified and an amount has been accrued, Santee Cooper is including this Exception in the 2023 Report. Santee Cooper will update the Court about this Exception.

4. Fire – Sugar Camp, and Change in Law based on Order of the Mine Safety and Health Administration

As outlined in the 2021 and 2022 Reports, in August 2021, a fire in the mines of Santee Cooper's primary coal supplier led to the closure of the mines at that site by the U.S. Mine Safety and Health Administration ("MSHA") by order pursuant to Section 103(k) of the Mine Act. This event falls under two exceptions in the Settlement Agreement: a fire and a Change in Law based on the order issued by MSHA. As explained below, the event continued in 2023 to directly disrupt Santee Cooper's coal supply and caused Santee Cooper to experience increased costs for purchasing replacement coal and costs to replace the power that would have been generated from the planned supply of coal from Foresight. The amount of this exception for 2023 is $135,276,799.

a. Background on Event and Developments[7]

Santee Cooper uses coal to generate power at its Cross and Winyah generating stations, both of which together can contribute 3,500 MW of power to Santee Cooper's customers annually. (*See* 2021 Report, at 17 (attaching excerpts from Fingertip Facts 2020 as Exhibit V).) These stations' output makes up 37 percent of the power Santee Cooper generates annually. (*Id.* at 16.) Santee Cooper contracts with Foresight Coal Sales, LLC ("Foresight") to purchase coal for use in these generating stations. In August 2020, Santee Cooper and Foresight contracted for the purchase of coal from Foresight's Sugar Camp Complex. (*See* 2021 Report, III.C.5 at 17 (attaching Contract between S.C. Public Service Authority and Foresight Coal Sales, LLC & Second Amendment as Exhibit U).) The Sugar Camp Complex has multiple mines, including the Viking Mine and the M-Class Mine.

On August 21, 2021, Foresight notified Santee Cooper that the Sugar Camp M-Class and Viking Mines had been closed pursuant to an MSHA order based on "elevated carbon monoxide readings" and that the MSHA order was a force majeure event and required withdrawal of all personnel from the underground mine area. (*See* 2021 Report, at 17 (attaching Letter from Robert D. Moore, President, Foresight Coal Sales LLC to S.C. Public Service Authority (Aug. 21, 2021) as Exhibit W).) From September 2021 through January 2022, Santee Cooper received no coal from the Sugar Camp Complex. On January 11, 2022, MSHA issued an order "to allow [Foresight] to resume normal activities, including production of coal, on the Viking side of the mine." (*See*

[7] A comprehensive background of events and developments is reflected in the 2021 and 2022 Reports.

2022 Report at 21 (attaching U.S. Dep't of Labor, Mine Safety & Health Admin., Mine Order, Mine ID 11-03189 (Jan. 11, 2022) as Exhibit X).) On March 10, 2022, Foresight notified Santee Cooper that it was able to resume operations in the Viking portion of the mine, though the M-Class portion of Sugar Camp Complex remained closed. (*See* 2021 Report, at 18 (attaching Letter from Robert D. Moore, President, Foresight Coal Sales LLC to S.C. Public Service Authority (Mar. 10, 2022) as Exhibit Z).) As of April 23, 2024, MSHA had not lifted the order for the M-Class Mine, and the MSHA order, as modified, remains in effect. (*See* MSHA Violations, listing Order 9198903 as ongoing as of April 23, 2024, attached as Exhibit BB.)

b. Efforts to Manage the Effects of the Mine Closure

Santee Cooper has received some coal from the Sugar Camp Complex but continues to not receive the full amount under the contract with Foresight. Discussions and negotiations regarding Foresight's supply of coal to Santee Cooper and ability to meet contractual volume in addition to makeup tonnage continued throughout 2023.

As in 2021 and 2022, some replacement coal was identified and purchased in 2023 under either new spot purchase agreements or through amendments to existing agreements at prices above the contract price but lower than the marketplace, totaling approximately 1,199,440 tons. (*See* Spot Purchase Report, attached as Exhibit CC.) Of the 1,199,440 tons, 1,159,068 tons were purchased under new spot purchase agreements and 40,372 tons were procured through amendments to existing agreements, including Foresight via other mines, at prices above the contract prices but lower than the market price. (*See infra* nFront Letter at 4.) These arrangements were not at the more favorable contract price that Santee Cooper would have received under its contract with Foresight.

Santee Cooper was able to purchase some coal on the market, which was needed to ensure reliability, to replace what it expected to receive from Foresight. Santee Cooper also sourced some of the replacement power by securing natural gas for its own generating stations and purchasing more power from the market. Natural gas and purchased power supply options were the more economical options at the time.

c. Financial Impact of Mine Closure

As in the 2021 and 2022 Reports, to quantify the costs to Santee Cooper directly resulting from the Sugar Camp fire and related MSHA order, Santee Cooper compared a model of how its system actually operated during the reporting period to a model of how its system would have operated if the supply of coal expected from the Sugar Camp Complex had continued as if the fire had not occurred and MSHA had not ordered the mine closed. The models were evaluated by nFront Consulting LLC, a consulting firm with considerable experience in analyzing power supply resource-related options and costs for Santee Cooper and many other utilities. Based on its review of the data used in the models and the models themselves, nFront concluded that the costs and the calculation methodology are reasonable, consider pertinent factors and information, and reasonably assess the impacts on Santee Cooper's system of the Sugar Camp Complex fire and closure. (*See* 2023 Energy Costs Impacts Letter from John Painter, CEO and Executive Consultant, nFront Consulting LLC, to Pamela Williams, General Counsel, S.C. Public Service Authority at 2 (Apr. 9, 2024), attached as Exhibit DD ("nFront Letter").)

As stated in the 2021 and 2022 Reports, due to differences in various contract provisions with customers, Santee Cooper evaluated the allocation and recovery mechanisms related to these costs. Based on their agreements, which included rates or components that were not included in the Rate Freeze, certain customers paid toward the fuel costs in 2023. These fuel-related revenues are deducted from the system energy costs for a net system production cost.

Based on the assessment described in the nFront Letter, for the 2023 Reporting Period, Santee Cooper's net system energy costs resulting from the Sugar Camp Complex fire are $135,276,799. (*See* nFront Letter at 8.) This amount represents a gross cost of $151,716,369 and a reduction of $16,439,570 from the fuel-related revenues already received from customers for 2023. (*Id.*)

5. Catastrophic Failure of Equipment and Fire – VC Summer 1

a. Background on Event

As explained in the 2021 and 2022 Reports, on the evening of November 15, 2021, the main step-up transformer at V.C. Summer Nuclear Station Unit 1 experienced an internal fault on the center bushing on the transformer. (*See* 2021 Report at 20 (attaching Direct Testimony of George A. Lippard, III, Annual Review of Base Rates for Fuel Costs for Dominion Energy South Carolina, Public Service Commission (No. 2022-2-E) (Feb. 7, 2022) as Exhibit CC).) In November 2022, the Electric Power Research Institute ("EPRI") reported that the bushing failed due to a manufacturing defect or multiple manufacturing defects. (*See* 2022 Report at 25 (attaching Dominion Energy Transformer Failure Evaluation excerpt as Exhibit EE).) The defect resulted in catastrophic damage to the transformer and ultimately, a fire on the transformer. (*Id.*) The main transformer sends power onto the grid from the station. (*Id.*) In addition to the fault and fire, the transformer failure resulted in a leak of transformer mineral oil, a highly flammable substance. (*Id.*)

As of December 31, 2023, the work to remediate, repair, and replace the transformer was still underway. A replacement transformer and spare transformer were being manufactured, and the replacement transformer was delivered on April 1, 2024 and transferred to the Unit 1 location on April 16, 2024. The failed transformer was scraped and removed in October 2023.[8]

b. Financial Impact of Transformer Fire

Pursuant to a Joint Ownership Agreement, Santee Cooper has one-third ownership of V.C. Summer 1, resulting in Santee Cooper receiving one third of the output from the Unit and paying one third of certain costs. Dominion Energy owns two-thirds of V.C. Summer 1 and also manages Unit 1. An insurance policy is expected to cover a portion of the costs related to the transformer failure and fire. Santee Cooper pays one-third of the cost of the policy and is obligated for one-third of the deductible and for one-third of the costs that are not covered by the insurance policy. Santee Cooper's portion of the deductible is $333,333.

Although Dominion submitted an insurance claim in January 2023, insurance proceeds related to that claim were not received by December 31, 2023. Subject to the insurance proceeds and the ongoing work, Santee Cooper has identified its costs as of December 31, 2023.

For the 2023 Reporting Period, Santee Cooper accrued $2,005,824.26 in remediation and repair costs, which are expected to be covered by insurance. (*See* Accounting Materials on V.C. Summer 1, attached collectively as Exhibit EE.) Santee Cooper also accrued $1,246,074.08 in capital costs related to the replacement transformer, a portion of which is expected to be covered by insurance. (*Id.*) In addition, Santee Cooper accrued $2,760,491.73 in capital costs related to the spare transformer. (*Id.*) In summary, the total amount for this exception for the 2023 Reporting Period is $6,012,390.07. To the extent proceeds related to this event are received, they will be used to reduce the costs.

[8] The 2022 Report stated that Dominion contracted with Mitsubishi for a replacement and a spare transformer; however, Dominion contracted with Hitachi for these transformers.

6. Named Storm

a. Hurricane Idalia

On the morning of August 30, 2023, Hurricane Idalia made landfall in Florida with winds reaching 125 mph. (*See Hurricane Idalia Strikes the Florida Big Bend*, Nat'l Weather Service, (Aug. 30, 2023), articles and press releases referenced in this section are attached as Exhibit FF.) The storm moved into South Carolina with winds reaching speeds of 60 mph. (*Tropical Storm Idalia Brings Flooding to South Carolina*, CBS News (Aug. 30, 2023), Exhibit FF.) Governor Henry McMaster issued an executive order declaring a state of emergency in South Carolina due to Hurricane Idalia. (S.C. Exec. Order No. 2023-29 (Aug. 29, 2023), attached as Exhibit GG.)

In preparation for Hurricane Idalia's impact on South Carolina, on August 28, 2023, Santee Cooper moved to Operating Condition 4 alert status due to the possible threat to its electric system. (*See Santee Cooper Preparing for Tropical Storm Idalia*, Santee Cooper (Aug. 28, 2023), Exhibit FF.) As a result, Santee Cooper took precautionary steps in an effort to secure infrastructure and keep electricity flowing to its 209,000 customers in Berkeley, Georgetown and Horry counties and its wholesale and industrial customers across the state. (*See Santee Cooper Prepared for Hurricane Idalia*, Santee Cooper (Aug. 30, 2023), Exhibit FF.) Hurricane Idalia caused "minor retail system damage but more significant – but quickly addressed – issues for [the] transmission system." (Santee Cooper Annual Report at 6, Exhibit C.) In total, 2,709 retail customers lost power because of Hurricane Idalia, but Santee Cooper fully restored the power overnight. (*Id.*)

As with previous named storms identified as exceptions, Santee Cooper utilized a mechanism within its accounting system to track costs and expenses related to Hurricane Idalia, including costs incurred securing infrastructure to minimize adverse impacts and restoration. Santee Cooper's total costs incurred during the 2023 Reporting Period was $995,720.45. The categories of costs and amounts are identified in Exhibit HH, along with a report from Santee Cooper's accounting system, Exhibit II.

On August 31, 2023, the Federal Emergency Management Agency ("FEMA") additionally declared Hurricane Idalia an emergency for South Carolina. (*See* Federal Emergency Management Agency, 3597-EM-SC Initial Notice (Aug. 31, 2023), attached as Exhibit JJ.) Based on the declaration, Santee Cooper was eligible to apply for federal funding to pay 75 percent of approved costs for certain emergency protective measures. In February 2024, Santee Cooper applied to FEMA for reimbursement for eligible costs directly resulting from Hurricane Idalia. (*See* Dep't of Homeland Security Federal Emergency Management Agency Application, attached as Exhibit KK.) The amount reimbursed by FEMA for costs incurred during the 2023 Reporting Period will be deducted from the $995,720.45, reducing the amount that may be deferred for collection.

b. Hurricane Ian – 2022 Reporting Period Update

In the 2022 Report, Santee Cooper reported incurring $3,231,446.80 in total costs related to Hurricane Ian. (*See* 2022 Report, III.C.10, at 37.) Based on FEMA's declaration of Hurricane Ian as an emergency for South Carolina during the period from September 25, 2022 to October 4, 2022, Santee Cooper applied to FEMA for reimbursement for eligible costs directly resulting from Hurricane Ian. (*Id.*) In 2023, Santee Cooper received $326,548.50 in FEMA reimbursement. (*See* South Carolina Emergency Management Division, Public Assistance Payment Summary, attached as Exhibit LL.) This reimbursement reduces the costs incurred during the 2022 Reporting Period to $2,904,898.30. Santee Cooper anticipates receipt of additional FEMA reimbursement for the 2022 Reporting Period and it will update future reports to include any such information.

7. Change in Law – FERC Order 881

On December 16, 2021, the Federal Energy Regulatory Commission ("FERC") published a news release announcing that the agency had approved FERC Order 881, which is a new final rule under the Federal Power Act to improve the accuracy and transparency of electric transmission line ratings. (*See* News Release, FERC, FERC Rule to Improve Transmission Line Ratings Will Help Lower Transmission Costs, (Dec. 16, 2021), attached as Exhibit MM.) Transmission line ratings "represent the maximum transfer capability of each transmission line and can change based on weather conditions." (*Id.*)

FERC Order 881 revised both FERC's regulations under the Federal Power Act and the *pro forma* Open Access Transmission Tariff ("OATT"). FERC Order 881 requires that "all transmission providers, both inside and outside of organized markets, use ambient-adjusted ratings as the basis for evaluating near-term transmission service to increase the accuracy of near-term line ratings." (*Id.*) FERC Order 881 additionally requires public utility transmission providers to: 1) implement ambient-adjusted ratings ("AAR") on the transmission lines over which they provide transmission service; 2) use uniquely determined emergency ratings; 3) maintain a database of transmission owners' transmission line ratings and transmission line rating methodologies on the transmission provider's OASIS site or other password-protected website; and 4) share transmission line rating and transmission line rating methodologies with their respective transmission providers and with market monitors in regional transmission organizations and independent system operators. (*See* Order No. 881, Managing Transmission Line Ratings, 87 FR 2244 (Jan. 13, 2022), attached as Exhibit NN.) In order to meet these requirements, Santee Cooper will need to update systems and processes, such as ensuring that ambient adjusted rating values are accurately calculated for all equipment, implementing supporting software solutions to manage ratings, and acting on any additional directions issued from the Regional Transmission Operator.

FERC Order 881 imposed a deadline of July 12, 2025, for utilities to update their OATT to include new *pro forma* language. Santee Cooper's OATT identifies the rates, terms, and conditions under which Santee Cooper will allow wholesale entities to use Santee Cooper's transmission system. Through maintaining an OATT that complies with FERC regulations, Santee Cooper ensures that it can purchase transmission services on other systems. On June 27, 2022, the Santee Cooper Board of Directors adopted a resolution amending Santee Cooper's OATT to bring it into compliance with FERC Order 881. (*See* Resolution Adopting Amendment of the Authority's Open Access Transmission Tariff, attached as Exhibit OO.)

In 2023, Santee Cooper engaged consultants to assist with the development of a FERC Order 881-compliant facility ratings application, module for an energy management system, and scooping for an Ambient Adjusted Rating Forecasting product. These vendors were engaged in preparation to meet full operational implementation by the July 12, 2025 deadline provided in the Order.

The costs for 2023 related to compliance with FERC Order 881 are $763,959.03. (*See* FERC Order 881 Compliance Costs, attached as Exhibit PP.)

8. Change in Law – FERC license issuance regarding Santee Cooper Hydroelectric Project No. 199

In 1926, the Federal Power Commission, as predecessor to FERC, issued the original 50-year license for the Santee Cooper Hydroelectric Project No. 199 ("Hydroelectric Project") which provided hydroelectric power from the Santee and Cooper rivers and improved navigation from the coast to the midlands through the creation of Lake Marion and Lake Moultrie. (*See* Order Issuing New License, FERC (Jan. 20, 2023), attached as Exhibit QQ.) As part of the Hydroelectric

Project, Santee Cooper must comply with FERC license requirements which include considerations for hydropower generation, navigation, aquatic weed control, vector control, water quality monitoring, land management and use classifications, forest management, protection of wildlife habitats, recreation, public access and boat landings, public safety and security, lake management, and dam safety. (*Id.*)

As further background, the Hydroelectric Project boundary encompasses 179,892 acres of natural land and water area, including 236 acres of federal land within the Santee National Wildlife Refuge administered by the U.S. Fish and Wildlife Service ("FWS") (*Id.* at 8.) Santee Cooper acquired the second license for the project in 1979, which was set to expire March 31, 2006. (*Id.* at 2; *see also* Order Issuing New Major License and Approving Offer of Settlement with Modifications, FERC (May 9, 1979), attached as Exhibit RR.) On March 15, 2004, Santee Cooper filed an application for a new license under the Federal Power Act to continue operation and maintenance of the Hydroelectric Project (*Id.* at 2.) Following publication of the Commission's acceptance of the relicense application in the Federal Register, the Commission opened the application for an environmental analysis and comment period with a filing deadline of May 8, 2006. The U.S. Department of the Interior ("Interior"), National Marine Fisheries Service ("NMFS"), South Carolina Coastal Conservation League, American Rivers, South Carolina Department of Natural Resources ("SC DNR"), and the U.S. Forest Service each filed comments and recommendations. (*Id.*)

After a series of negotiations concerning proposed fishway prescriptions, minimum instream flows, and headwater enhancements occurred between the FWS, Santee Cooper, and SC DNR, the parties finalized a Settlement Agreement modifying some of the requirements in May of 2007. (*See* Order Issuing New License, Exhibit QQ, at 133 (Relicensing Settlement Agreement for the Santee-Cooper Project No. 199, (filed May 24, 2007), attached as Appendix A).)

As part of its continued operation of the Hydroelectric Project, Santee Cooper reapplied for a renewed 50-year FERC license on December 9, 2020. (*Id.* at 90.) Reissuance of the license was conditioned upon Santee Cooper's compliance and implementation of the terms of the license, which included new regulatory requirements added by FERC in Articles 201 through 422. (*Id.* at 93-122.) FERC issued a new license for the Hydroelectric Project on January 20, 2023.

For the 2023 reporting period, Santee Cooper incurred consultant costs related to the development and implementation of fish studies and capital costs related to building fish lifts in the amount of $784,893.93. (*See* 2023 FERC License Compliance Expenditures, attached as Exhibit SS.)

9. Act of God and Flood – Winyah Generating Station ("WGS") Rain Event

On December 17, 2023, South Carolina was struck by a coastal storm, which led to widespread flood waters across Horry, Charleston, and Georgetown counties. The storm was categorized as a nor-easter – "a non-tropical low-pressure system that produces strong northeast winds along the coastline [and] that feeds off the temperature differences between cold and warm air masses." (*See Coastal Storm*, Nat'l Weather Service (Dec. 17, 2023), attached as Exhibit TT); *see also* Coastal Storm History and Impacts Report, S.C. State Climatology Office, (Dec. 21, 2023), attached as Exhibit UU.)

As the storm moved through South Carolina, the strong onshore winds pushed water ashore near high tide causing widespread coastal flooding exacerbated by heavy rainfall and stationary thunderstorms over areas of Georgetown, Charleston, and Horry counties. (Coastal Storm History and Impacts Report at 8, Exhibit UU.) Ultimately, Charleston, Georgetown, and Horry counties would report the highest rainfall totals, with those counties experiencing six to twelve inches of rain. (*Id.*) However, "[o]ne [Community Collaborative Rain, Hail and Snow] observer near McClellanville and one south of Georgetown measured two-day totals of over fourteen inches of rain." (*Id*.) Specifically, the inches of rainfall reported in Georgetown resulted in an Annual Exceedance Probability ("AEP")[9] of .5% and 1%. (*Id.*) The AEP would categorize the event as a 100-Year Flood. (*See* South Carolina DHEC Storm Water Management BMP Handbook, Appendix F at F-2 (July 31, 2005) (reflecting a return period for a 24-hour rainfall total of 9.6 or 11.1 inches in Georgetown County is 100 years), attached as Exhibit VV; *see also* Water Science School, *The 100-Year Flood*, U.S. Geological Survey (June 7, 2018) (defining a100-year flood as "a flood that statistically has a 1-percent chance of occurring in any given year"), attached as Exhibit CCC.)

WGS is located in Georgetown County. Due to the rain event, the landfill at WGS was flooded, cracking the ash containment system, and leading to the failure of the landfill's drainage system. The South Carolina Department of Health and Environmental Control ("DHEC") oversees the guidelines and minimum standards concerning the regulation and operation of landfills. (*See* 32 S.C. Reg. 164 (May 23, 2008), excerpt attached as Exhibit WW.) Under South Carolina regulations, class two and class three landfills are required to have storm water control systems designed to handle water levels of a 25-year storm. (*E.g.*, *id.* at 220, 246 (R.61-107.19 Part IV § D(2)(b), Part V § D(258.40)(f)).) The WGS landfill is a class three landfill and was designed in compliance with all applicable regulations, and accordingly, was not designed to sustain a 100-

[9] The AEP is the "[p]ercent chance that an event will happen in any given year." (Coastal Storm History and Impacts Report at 8.)

year storm level of rain. Accordingly, the flood overwhelmed the drainage system and caused varying damage.

Santee Cooper accrued $260,612.20 in costs related to initiating the cleanup and repair of WGS in 2023. (*See* Winyah Landfill Cleanup Expenses, attached as Exhibit XX.) Repairs are ongoing, and Santee Cooper anticipates repair costs will continue into the 2024 Reporting Period.

IV. Comparison of January 1 to December 31, 2023 revenues and costs

Section IV.B of the Settlement Agreement states, "to the extent its costs and expenses incurred or otherwise appropriately attributable to the Rate Freeze Period . . . exceed its revenues based on the Rate Freezes described in Section IV.B, Santee Cooper will not include such excess at any point in time in its cost of service formula to be passed on to its customers through increased rates or charges." Accordingly, to determine if Santee Cooper's costs and expenses exceed its revenues based on the Rate Freeze for the 2023 Reporting Period, Santee Cooper prepared an analysis comparing its costs and expenses, determined on a revenue requirements basis, to its revenues. This analysis showed Santee Cooper's costs and expenses did not exceed its revenues. A summary of the analysis is attached. (*See* Summary of 2023 Reporting Period Actual Costs v. Revenues, attached as Exhibit YY.)

To ensure compliance with this requirement, it is appropriate to include costs and expenses that are included in customers' rates. Similar to other public power utilities, Santee Cooper's revenue requirements used to develop rates include operations and maintenance expenses, debt service, and payments in lieu of taxes.

The costs and expenses were compared to actual revenues, including revenues charged in accordance with the Rate Freeze. The Actual Costs v. Revenues Summary shows Santee Cooper's revenues exceeded its costs and expenses by $365.8 million for the 2023 Reporting Period. In addition to its costs and expenses, Santee Cooper's rates also include components to provide liquidity and to make transfers to the Capital Improvement Fund that are required under its bond resolution.

As discussed in section III.C above, Santee Cooper identified qualifying Exceptions. For purposes of the Actual Costs v. Revenues analysis, consistent with its 2023 Santee Cooper Annual Report, Santee Cooper excluded the cost of potential Exceptions that are included in the *Cook* Regulatory Asset from the costs and expenses. Santee Cooper did not exclude the cost of any other potential Exceptions from the costs and expenses. After the Rate Freeze concludes, this analysis may be updated.

As described in the 2022 Report, Santee Cooper approved a regulatory asset accounting treatment for Exceptions identified in the 2020 and 2021 *Cook* Compliance Reports to permit future adjustments to exception amounts when certain expenses are incurred in a period other than when they would be collected. (*See* 2022 Report, IV, at 41 (attaching June 27, 2022 board meeting excerpt as Exhibit XX).) Utilizing regulatory asset accounting helps Santee Cooper maintain appropriate financial metrics until those expenses can be collected. (*Id.*) On August 28, 2023, the Santee Cooper Board authorized the use of regulatory accounting for the 2022 *Cook* Exceptions and new Exceptions that were not previously approved on June 27, 2022. (*See* 2023 Santee Cooper Annual Report at 43, Exhibit C; *see also* Excerpt of Board materials from August 28, 2023 meeting, attached as Exhibit ZZ.) As reported in the 2023 Santee Cooper Annual Report, as of December 31, 2023, Santee Cooper recorded a total of $625.1 million in the regulatory account associated with the *Cook* Exceptions Regulatory Asset. (2023 Santee Cooper Annual Report at 27.)

V. Update on Debt Issuances

As detailed in the 2022 Report, Santee Cooper presented its plan to issue new bonds of up to $450 million to fund upcoming capital expenditures from early 2023 through mid to late 2024. Sante Cooper did not issue any additional bonds in 2023. (*See* 2023 Santee Cooper Annual Report at 36.)

As a direct result of the Exception costs that were included in the *Cook* Exceptions Regulatory Asset, it was necessary for Santee Cooper to borrow to fund a portion of those Exceptions through its Commercial Paper and Direct Pay Letters of Credit programs. As of December 31, 2023, Santee Cooper has borrowed $445 million. (*See Cook* Exceptions Regulatory Asset Costs, attached as Exhibit AAA.) In addition to the costs identified specific to each Exception, Santee Cooper also has costs of $20,697,408.65 directly resulting from the costs of debt incurred as to the *Cook* Exceptions Regulatory Asset that is based on previously reported exceptions. (*See id.*)

CONCLUSION

Santee Cooper is in compliance with the Amended Final Order and Settlement Agreement. In 2023, bill credits were issued to Class Members and rates remained frozen. Santee Cooper has not deferred costs and expenses occurring during the 2020 through 2023 Reporting Periods to a future period to be collected in post Rate Freeze rates. In accordance with the Settlement Agreement, nine situations that met the criteria for Exceptions were identified and reported on in the 2023 Report.