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**SENT VIA EMAIL**

January 25, 2021

The Honorable Lawrence K. Grooms  
South Carolina Senator  
131 Indian Field Drive  
Bonneau, SC 29431

Re: Santee Cooper Assets and Bond Covenants

Dear Senator Grooms:

You have asked whether the sale of some, but not all, of the assets of Santee Cooper would trigger any requirements under Santee Cooper's bond covenants or outstanding bonds. As described more fully below, any sale of Santee Cooper assets needs be reviewed in light of Santee Cooper's bond covenants, the State of South Carolina's covenants set forth in Santee Cooper's enabling act and the contract clause in both the South Carolina and United States Constitutions. The answer to your question depends on, among other things, the particular assets being sold and the impact of such a sale on Santee Cooper's revenues relative to outstanding debt.

Santee Cooper's bonds, similar to other public power utilities, are secured by a lien on the revenue it derives from owning and operating its electric and water systems. Because bondholders have a lien on revenues from the operation of Santee Cooper's system but not on the system's assets, they have taken steps to protect themselves from actions either by Santee Cooper or the State of South Carolina that would result in the diminishment of Santee Cooper's revenues. That diminishment could be the result of several actions, including the sale of the assets Santee Cooper uses to create revenue. For this reason, there are several limitations on the sale of parts of the system in respect of the security of the bond holders.

Section 8.4 of Santee Cooper's bond resolution provides that Santee Cooper may sell or lease any part of its properties if it is desirable in the conduct of business and does not materially impair Santee Cooper's ability to satisfy debt service obligations and maintain the system in good repair. This and other covenants are part of a contract with bondholders, and any action taken that materially impairs Santee Cooper's ability to fulfill its contractual obligations could be deemed an unconstitutional impairment of contract under both the South Carolina and United States Constitutions. In addition, the State has pledged that it will not alter, limit or restrict Santee Cooper's ability to comply with the terms of the bond resolution.

There are certain assets and classes of assets that contribute significantly to Santee Cooper's revenue, and a sale of those assets could reduce revenue to a point where Santee Cooper might not be able to satisfy its debt service and other obligations. That is not to say that a sale of less than all of the assets could not take place. It could. But if either all the system, or a material part of the system, is sold, the bonds would have to be paid off and the system "recapitalized" with other debt.

Santee Cooper received an opinion of outside bond counsel in 2018 that the sale of major asset classes like the transmission or generation systems that contribute materially to revenue would trigger this constitutional issue and require paying off all outstanding debt. Assets that do not contribute materially to revenue could be sold (for example, surplus real property and equipment purchased for VC Summer 2&3) without triggering a requirement to pay off all debt. Santee Cooper has and will continue to sell surplus real and personal property, and generally uses sale proceeds to pay down debt. We recommend that before a commitment is made to sell any material part of Santee Cooper, an analysis should be conducted to review the sale in light of constitutional and other implications.

Sincerely,



Mark B. Bonsall

MBB/cgb

Cc: Pamela J. Williams