

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Jessica S. Cook, Corrin F. Bowers & Son, Cyril)
B. Rush, Jr., Bobby Bostick, Kyle Cook, Donna)
Jenkins, Chris Kolbe, and Ruth Ann Keffer, on)
behalf of themselves and all others similarly)
situated,)

CASE NO. 2019-CP-23-06675

Plaintiffs,)

NOTICE OF FILING
S.C. PUBLIC SERVICE
AUTHORITY'S
2021 ANNUAL COMPLIANCE
REPORT

v.)

South Carolina Public Service Authority, an)
Agency of the State of South Carolina (also)
known as Santee Cooper); W. Leighton Lord, III,)
in his capacity as chairman and director of the)
South Carolina Public Service Authority;)
William A. Finn, in his capacity as director of the)
South Carolina Public Service Authority; Barry)
Wynn, in his capacity as director of the South)
Carolina Public Service Authority; Kristofer)
Clark, in his capacity as director of the South)
Carolina Public Service Authority; Merrell W.)
Floyd, in his capacity as director of the South)
Carolina Public Service Authority; J. Calhoun)
Land, IV, in his capacity as director of the South)
Carolina Public Service Authority; Stephen H.)
Mudge, in his capacity as director of the South)
Carolina Public Service Authority; Peggy H.)
Pinnell, in her capacity as director of the South)
Carolina Public Service Authority; Dan J. Ray, in)
his capacity as director of the South Carolina)
Public Service Authority; David F. Singleton, in)
his capacity as director of the South Carolina)
Public Service Authority; Jack F. Wolfe, Jr., in)
his capacity as director of the South Carolina)
Public Service Authority; Central Electric Power)
Cooperative, Inc.; Palmetto Electric Cooperative,)
Inc.; South Carolina Electric & Gas Company;)
SCANA Corporation, SCANA Services, Inc.,)

Defendants.)

_____)

Pursuant to the Settlement Agreement in this case, Defendant South Carolina Public Service Authority (also known as Santee Cooper) gives notice of filing of its 2021 Annual Compliance Report (“2021 Report”) with supporting Exhibits A-MM, attached as Attachment 1.

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Columbia, South Carolina

April 29, 2022

Cook v. Santee Cooper

South Carolina Public Service Authority

2021 Annual Compliance Report

INTRODUCTION

Pursuant to the Settlement Agreement (the “Settlement Agreement” or the “Agreement”) for *Cook v. Santee Cooper*, Case No. 2019-CP-23-6675, the South Carolina Public Service Authority (“Santee Cooper”) submits its 2021 Annual Compliance Report (the “2021 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 and restrictions 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, Part IV.C, at 23, attached as Exhibit A.)

Santee Cooper, Central, and Class Counsel (the “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 (the “2020 Report,” attached as Exhibit C), providing detail on the topics in the Outline and ultimately showing compliance with the terms of the Agreement. Santee Cooper now files this 2021 Report to further show its continued compliance with the Settlement Agreement by addressing the Outline of Report Topics.

Regarding the Common Benefit Fund, Santee Cooper highlights that it timely made its second installment payment to the Fund, recorded the payment to the balance sheet, and no costs or expenses were recovered or deferred as a result of the recording. 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 2021 report, Santee Cooper identifies eight exceptions to the Rate Freeze:

1. Change in Law – COVID-19 laws, orders, and other actions
2. Change in Law – Act 90, passed by the South Carolina General Assembly
3. Change in Law – Effluent Limit Guidelines (“ELG”) regulation revisions regarding Flue Gas Desulphurization by the United States Environmental Protection Agency (“EPA”)
4. Change in Law – Armed Services Board of Contract Appeals order regarding St. Stephen Rediversion Project and statement of position by Army Corp of Engineers
5. Fire – Foresight Coal Supply LLC Sugar Camp Mine Complex, and Change in Law pursuant to order of the Mine Health and Safety Administration
6. Catastrophic failure of equipment and Fire – V.C. Summer 1 Transformer Failure Fire
7. Named Storm – Tropical Storm Elsa
8. Central Load Deviation – More than 4% below Reform Plan

At present the listed Exceptions amount to \$71,023,135 for 2021. The Exceptions identified in the 2020 and 2021 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 revenues in 2021.

COMPLIANCE WITH THE COOK SETTLEMENT

I. Report time period and supporting information

This report covers January 1, 2021 through December 31, 2021 (the “2021 Reporting Period”). Santee Cooper’s fiscal year is January 1 to December 31, and it utilizes the Federal Energy Regulatory Commission Uniform System of Accounts and follows Generally Accepted Accounting Principles. (*See Annual Report 2021, Note 1(B), at 40, attached as Exhibit D (“2021 Annual Report”).*)

On March 28, 2022, Santee Cooper’s Board of Directors received the report of its independent auditor, Cherry Bekaert, on its annual financial statements and the 2021 Annual Report. (*See generally 2021 Annual Report.*) As reflected in the 2021 Annual Report, Cherry

Bekaert found “the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities and fiduciary activities of the Authority as of December 31, 2021 and 2020, and the respective changes in financial position and, where applicable, its cash flows for the years 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.

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 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 2021 report (assuming Effective Date about 60 days after Final Approval Hearing)¹:

¹ The Outline reflects that Santee Cooper will report on class allocation data and bill credits in its “2021 report.” (Outline of Report Topics at 2.) At the time of the Outline, the Parties had not addressed the nomenclature for the reports and later named the report to reflect the year being reported on instead of the reporting year. The Parties thus intended the information on class allocation and bill credits to be provided in the 2020 Report, and Santee Cooper did include this information in its 2020 Report. (*See* 2020 Report, Parts II.B.1-B.2 at 5-7.) This action of providing

- a. Class allocation data timely provided
 - b. Bill credits timeline provided
3. 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 at 2.)

A. Payment timely made by September 30, 2021 by Santee Cooper

In compliance with the Settlement Agreement, Santee Cooper timely made the second installment payment of \$65 million to the Common Benefit Fund on September 24, 2021. 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.) Following the same wiring instructions used in 2020 for the first payment, Santee Cooper wired \$65 million to the Escrow Agent, Huntington National Bank, per those instructions on September 24, 2021. (*See* Wells Fargo Wires Payment Detail (Sept. 24, 2021), attached as Exhibit E.)

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

Santee Cooper expensed and recorded the full \$200 million settlement liability in 2019 and subsequently paid and recorded the first \$65 million payment toward that liability from cash on hand in 2020. (*See* 2020 Report, Parts II.C.1-2 at 7-9 (providing detail of the initial recording and treatment of the \$200 million and recording of the first \$65 million payment).) The recording and treatment of the \$200 million liability and the first \$65 million payment did not change between the 2020 Report and this 2021 Report.

The second \$65 million installment to the Common Benefit Fund was paid on September

class allocation data and bill credits is not applicable for the 2021 Reporting Period.

24, 2021. Santee Cooper utilized funds on hand to make the payment and debited the short-term liability (Account 2420) and credited cash (Account 1310). (*See* Recording of Second Installment, attached as Exhibit F). This entry was recorded to the balance sheet only, reducing an existing liability, and no costs or expenses were recovered or deferred as a result of recording the payment in this manner. (*Id.*)

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.) 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 Topics for the Annual Compliance Report identified the following information to be reported for the 2021 Reporting Period related to the Non-Cash Settlement, which are addressed in this part of the Report:

1. For 2021 report, Board resolution addressing Rate Freeze²
2. Posting of frozen rates on web site – Frozen rate schedules and Schedule B
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 at 2.)

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

The second item in the Outline is to report on the posting of frozen rates on the website. As indicated in the 2020 Report, the frozen rates and charges were posted on the website on July 27, 2020. (2020 Report, Part III.A at 10.) This information is still on the website. (*See* Holding Rates Steady, <https://www.santecooper.com/About/Increasing-Value/Rates/Index.aspx>, last visited April 15, 2022, attached as Exhibit G.)

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

² Santee Cooper reported on this issue in the 2020 Report. (2020 Report, Part III.A at 10.) See footnote 1 regarding nomenclature for the reports. The reporting on a board resolution addressing the Rate Freeze is not applicable for the 2021 Reporting Period.

21.) 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, 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 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, Parts 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 Report. Examples of 2021 bills for affected customers are attached as follows:

- Exhibit H: Industrial customer bill for L-17 and I-17 rates;
- Exhibit I: Residential, commercial, and lighting customer bills; and
- Exhibit J: Municipal customer bills for Georgetown, Bamberg, and Seneca.

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 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 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 2021 to December 2021 showing rates consistent with Schedule A are attached. (See Central's 2021 Invoices, attached as Exhibit K.) In addition, after December 31, 2021, calculations of Central loads to incorporate actual line losses incurred during the 2021 Reporting Period were completed. The changes to Central's loads from these calculations resulted in a billing adjustment for their service during the Reporting Period. Central received this adjustment on its April 2022 invoice for March usage. (See Central's April 2022 Invoice, attached as Exhibit L.)

C. Exceptions identified for the period January 1, 2021 through December 31, 2021

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.) These items are referred to as "Exceptions." For the 2020 Reporting Period, Santee Cooper identified three Exceptions: Change in Law – COVID-19; Named Storm – Hurricane Isaias; and Central Load Deviation. (See 2020 Report, III.C at 12-17.) For the 2021 Reporting Period, Santee Cooper has identified eight situations qualifying as Exceptions:

Exception	Amount (Jan 1, 2021-Dec 31, 2021)
1. Change in Law – COVID-19	\$ 3,443,862.46
2. Change in Law – Act 90	\$ 259,276.51
3. Change in Law – ELG regulation revisions regarding Flue Gas Desulphurization by the EPA	\$ 4,235,976.00
4. Change in Law – Order regarding St. Stephen Rediversion Project	\$ 4,041,240.00
5. Fire – Sugar Camp, and Change in Law pursuant to order of the Mine Health and Safety Administration	\$ 37,828,343.00

Exception	Amount (Jan 1, 2021-Dec 31, 2021)
6. Catastrophic failure of equipment and Fire – VC Summer 1	\$ 5,590,376.93
7. Named Storm – Tropical Storm Elsa	\$ 175,069.99
8. Central Load Deviation – More than 4% below Reform Plan	\$ 15,449,000.00

Future events may affect the amounts listed above. 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 – COVID-19

As noted in the 2020 Report and continuing through 2021, the coronavirus pandemic prompted a response from federal, state, and local levels of government. Legislation, executive orders, and emergency orders were enacted and extended. Santee Cooper incurred costs and expenses during the 2020 and 2021 Reporting Periods because of these changes in law.

Santee Cooper has a mechanism within its accounting system to track costs related to the coronavirus pandemic. The total amount incurred during the 2021 Reporting Period due to these changes in law was \$3,443,862.46. The categories of costs, amounts, and sources of law that led to the 2021 costs are described in the chart attached as Exhibit M, along with a report from the COVID-19 Project/Task subaccount. (See Chart of Costs from Changes in Law Related to COVID-19 and Chart of Tasks and Expenditures Under COVID-19 Project Subaccount, attached as Exhibit N.)

The total amount incurred during the 2020 Reporting Period was \$5.2 million.

(2020 Report, Part III.C.1 at 14-15.) In the 2020 Report, Santee Cooper indicated that a portion of the amount under the Change in Law – COVID-19 Exception is subject to reimbursement from the Federal Emergency Management Agency (“FEMA”). (*Id.*) Santee Cooper has since received notice from FEMA that certain costs are not eligible for reimbursement; therefore, as an update to the 2020 Report, Santee Cooper does not expect to receive any funds to offset the estimated deferred charge for this Exception for 2020. (*See* Eligibility Determination Memorandum, attached as Exhibit O.)

2. Change in Law – Act 90 of 2021

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 this Reporting Period, Act 90 subjects Santee Cooper to oversight 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 2021 Reporting Period because of its efforts to comply with this change in law.

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 1.³ *Id.* § 58-31-240(B). To comply with these provisions of Act 90, in 2021, Santee Cooper hired an employee, and a portion of that position is allocated to supporting JBRC compliance.

Second, beginning January 1, 2022, the PSC has responsibilities related to Santee Cooper, including that Santee Cooper is required to submit an Integrated Resource Plan (“IRP”) to the PSC every 3 years, with its first IRP being due at the end of 2023. *Id.* § 58-37-40(A)(1), (3). In the context of the IRP process, Santee Cooper had costs associated with meeting the requirements of Act 90 such as a consultant and hiring two employees.

Third, with respect to ORS, Santee Cooper is required to evaluate and respond to document and information requests from ORS. *Id.* § 58-4-55. ORS has other roles and responsibilities related to Santee Cooper created by Act 90. *See id.* § 58-4-51. To meet the obligations of Act 90, Santee Cooper created a staff position that is allocated to this responsibility.

In summary, the total amount for this Act 90 exception is \$259,276.51, and the amounts for each component of the Act 90 costs are the following:

Act 90 Component	Amount (Jan 1, 2021-Dec 31, 2021)
JBRC compliance	\$ 20,412.00
PSC compliance – IRP	\$ 233,861.30
ORS compliance	\$ 5,003.21

(Costs related to Act 90, attached as Exhibit P.)

3. Change in Law – ELG Rule Change regarding Flue Gas Desulphurization

Wastewaters from electrical generating units that operate using steam are regulated by the

³ 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.

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. The first version of the ELG rule was published in 1974 and was later amended in 1982 by a final rule that broadly revised requirements across the industry. These rules remained in force for over thirty years until the EPA published an amendment in 2015, which was followed by a 2017 rule to postpone certain compliance dates established in the 2015 amendment, and a 2020 reconsideration rule. (*See* 40 CFR Part 423; *see also* U.S. Environmental Protection Agency, 2020 Steam Electric Reconsideration Rule, <https://www.epa.gov/eg/2020-steam-electric-reconsideration-rule>.) The October 13, 2020 final rule imposed requirements related to Flue Gas Desulphurization (“FGD”) (*id.*), which have caused Santee Cooper to initiate work in 2021 to comply with this rule change.

Specifically, in 2021, Santee Cooper began a pilot study at its Cross generating station of FGD wastewater treatment technologies. Santee Cooper had costs related to these studies including for contractors involved in the studies. (*See* Cross ELG Expenditure, attached as Exhibit Q.) The costs for 2021 related to compliance with the 2020 rule change are \$4,235,976.

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

Santee Cooper is subject to an order issued by the Armed Services Board of Contract Appeals (“ASBCA”) issued in 2020 regarding its agreement with the Army Corp of Engineers (“ACOE”) related to the St. Stephen Rediversion Project. (*See* ASBCA Order (July 7, 2020), attached as Exhibit R (“Order”).) As explained below, the ACOE notified Santee Cooper in 2021 of its position on the application of the ASBCA decision. Santee Cooper has identified this as an exception based on Change in Law.

As background, and as described in the Order, when Santee Cooper was created in 1934,

the South Carolina General Assembly authorized it to undertake a diversion project that resulted in the construction of two reservoirs, Lake Marion and Lake Moultrie, and a hydroelectric plant, Jefferies Hydroelectric Station, to serve the rural South Carolina population. This original diversion project, however, created shoaling problems in the Charleston Harbor, which required the ACOE to dredge the Harbor annually.

To solve the shoaling issue, the United States Congress authorized construction of the Cooper River Rediversion Project at St. Stephen Hydroelectric Plant, by which the ACOE created a dam that rediverts water back to the Santee River. The St. Stephen Hydroelectric Plant, however, negatively impacted the generating capacity of the Jefferies Hydroelectric Station. As a compromise, the ACOE and Santee Cooper reached an agreement in 1976 by which the ACOE agreed to sell Santee Cooper power in compensation for decreasing the generation from Jefferies, and for Santee Cooper to receive power from the St. Stephen hydropower facility for 50 years. The financial obligations between the parties began once the unit reached commercial operation, which happened in 1985, and the compensation was based on a 30-year formula. The 30-year formula expired in 2015.

In 2015, the parties disputed whether Santee Cooper was obligated to pay the ACOE for capacity charges for the next 20 years. The ACOE's contract officer issued an opinion that Santee Cooper was obligated to pay capacity charge for the next twenty years. Santee Cooper appealed that decision before the ASBCA. The ASBCA issued its Order on July 22, 2020, holding that Santee Cooper was obligated to pay capacity charges for the next 20 years. The ASBCA directed the parties to negotiate to determine the amount Santee Cooper would pay.

On September 17, 2021, the ACOE informed Santee Cooper of the amounts it thought Santee Cooper owed for each year from 2015, which is \$55 million. (*See* Letter from Addison

Layfield, Contracting Officer, U.S. Army Corps of Engineers to S.C. Public Service Authority (Sept. 17, 2021), attached as Exhibit S.) The ACOE proposed to offset that total by amounts it is withholding from paying Santee Cooper, totaling \$24 million. (*Id.*) According to the ACOE, the net obligation due to it from Santee Cooper in 2021 was \$31 million. Because Santee Cooper disputes the amount ACOE asserts Santee Cooper should pay, Santee Cooper accrued \$4,041,240 in 2021. (*See* Account Reconciliation for St. Stephen Rediversion Project, attached as Exhibit T.)

As noted, Santee Cooper disagrees with the ACOE's calculation and is negotiating with the ACOE. Because this Exception has been identified and an amount has been accrued, Santee Cooper is including the Exception in the 2021 Report. Santee Cooper will update the Court about this Exception.

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

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 directly disrupted 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 2021 is \$37,828,343.

a. Background on Event

Santee Cooper contracts with Foresight Coal Sales, LLC ("Foresight") to purchase coal for use in generating power from several generating stations owned by Santee Cooper. In August 2020, Santee Cooper and Foresight contracted for purchase of coal from Foresight's Sugar Camp

Complex which has multiple mines, including the Viking Mine and the M-Class Mine. (See Contract between S.C. Public Service Authority and Foresight Coal Sales, LLC & Second Amendment, attached as Exhibit U.) 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 Fingertip Facts 2020 at 12-16, attached as Exhibit V.) These stations' output makes up 37 percent of the power Santee Cooper generates annually. (*Id.*)

On August 21, 2021, Foresight notified Santee Cooper that the Sugar Camp M-Class and Viking mines had been closed pursuant to MSHA order based on "elevated carbon monoxide readings":

On Saturday, August 14, 2021, in response to elevated carbon monoxide readings inside Sugar Camp Energy, LLC's MC #1 Mine, MSHA issued an order under Section 103(k) of the Mine Act ("k-order") that required withdrawal of all personnel from the entire underground mine area. The k-order, as currently issued, requires withdrawal of all miners from the entire underground mine area, including both the M-Class and Viking longwall sections and all continuous miner sections (hereinafter the "Sugar Camp Energy Complex"). Thus, the current language of the k-order prevents underground coal production from all sections at the Sugar Camp Energy Complex.

(Letter from Robert D. Moore, President, Foresight Coal Sales LLC to S.C. Public Service Authority (Aug. 21, 2021), attached as Exhibit W.) Santee Cooper received a copy of the MSHA order from Foresight on April 20, 2022. (U.S. Dep't of Labor, Mine Safety & Health Admin., Mine Order, Mine ID 11-03189 (Aug. 14, 2021), attached as Exhibit MM.)

In a later update about efforts to remedy the conditions and reopen the mines, Foresight explained that even after the Viking area of the mine had been sealed (which was then underway), the M-Class area of the mine would "remain sealed and inert for an indeterminate amount of time sufficient to extinguish any remaining potential combustion occurring in that area of the mine." (Letter from Robert D. Moore, President, Foresight Coal Sales LLC to S.C. Public Service

Authority (Sept. 13, 2021), attached as Exhibit X; *see also* Letter from Robert D. Moore, President, Foresight Coal Sales LLC to S.C. Public Service Authority (Dec. 23, 2021), attached as Exhibit Y.) As of December 31, 2021, the mines had not reopened.

On March 10, 2022, however, 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 was (and is) still closed. (*See* Letter from Robert D. Moore, President, Foresight Coal Sales LLC to S.C. Public Service Authority (Mar. 10, 2022), attached as Exhibit Z.) Santee Cooper since has received some coal from the Sugar Camp Complex but continues to not receive the full amount under the contract with Foresight.

In its August 21, 2021 letter, Foresight provided notice that the MSHA order was a force majeure event under Section 8.1 of its contract with Santee Cooper. (*See* August 21, 2021 Letter at 1.) Foresight explained that the MSHA order required withdrawal of all personnel from the underground mine area. (*Id.*) The entire area of the Viking and M-Class sections of the mine were subject to the MSHA order. (*Id.*; *see also* September 13, 2021 Letter and December 23, 2021 Letter.)

b. Efforts to Manage the Effects of the Mine Closure

The fire and closure of the mine occurred in August 2021. From September through December, Santee Cooper received no coal from the Sugar Camp Complex. (*See id.*) The loss of coal supply from this mine was significant as it was 50 percent of the total coal Santee Cooper regularly received. Santee Cooper undertook a number of measures to manage the effects of the mine closure, including purchasing coal from other suppliers, switching to other generating sources, and purchasing power on the market.

Some replacement coal was identified and purchased, providing about 101,001 tons. (*See*

Spot Purchase Report, attached as Exhibit AA.) These arrangements were not at the more favorable contract price that Santee Cooper would have received under its contract with Foresight. Further, Santee Cooper's coal stockpile was affected, lowering the amount of coal Santee Cooper keeps on hand to ensure system reliability.

While Santee Cooper was able to purchase some coal on the market to replace what it expected to receive from Foresight, these quantities were insufficient to generate the typical amount of power from the coal generating units that Santee Cooper relies on to meet customer needs. To manage this situation, Santee Cooper both made adjustments to how it utilized its own generation resources, including natural gas, and purchased more power from the market to make up the difference.

c. Financial Impact of Mine Closure

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 September to December 2021 timeframe when Sugar Camp Complex was closed, to a model of how its system would have operated if the supply of coal expected from the Sugar Camp Complex had continued. 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 calculation methodology are reasonable, consider pertinent factors and information, and are a reasonable assessment of the impacts on Santee Cooper's system of the Sugar Camp Complex fire and closure. (*See* Letter from John Painter, CEO and Executive Consultant, nFront Consulting LLC, to Pamela Williams, General Counsel, S.C. Public Service Authority (April 20, 2022), attached as Exhibit BB ("nFront

Letter”.)

Based on the assessment described in the nFront Letter, for the 2021 Reporting Period, Santee Cooper’s system energy costs as a result of the Sugar Camp Complex fire are \$37,828,343. Due to differences in various customer and contract provisions, Santee Cooper is evaluating the allocation and recovery mechanisms related to these costs and expects the amount that could be recovered in the future to be less than the amount for the full system. Santee Cooper will update the Court regarding the amount to be recovered in the future.

6. Catastrophic failure of equipment and Fire – VC Summer 1

a. Background on Event

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* Direct Testimony of George A. Lippard, III at 7-8, Annual Review of Base Rates for Fuel Costs for Dominion Energy South Carolina, Public Service Commission (No. 2022-2-E) (Feb. 7, 2022), attached as Exhibit CC.) The fault resulted in catastrophic damage to the transformer and ultimately, a fire on the transformer. The main transformer sends power onto the grid from the station. In addition to the fault and fire, the transformer failure resulted in a leak of transformer mineral oil, a highly flammable substance.

V.C. Summer 1 was taken offline due to the transformer failure and fire beginning on November 15 through December 10, 2021. Santee Cooper was required to take steps to make up the loss of the power that would have been generated from V.C. Summer 1 and has costs from the remediation of the incident. The work to repair the transformer is still underway, and insurance coverage is implicated, so Santee Cooper has identified its costs as of December 31, 2021.

b. Financial Impact of Transformer Fire

Pursuant to a Joint Ownership Agreement, Santee Cooper has one-third ownership of the 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 will be \$333,333. As of December 31, 2021, Santee Cooper had accrued \$557,747.29 for costs that are expected to be covered by the policy. (*See Accounting Materials on V.C. Summer 1 – Covered Costs, attached as Exhibit DD.*) Thus, Santee Cooper expects to reduce that amount to \$333,333 in the future. Because this report captures the amounts accrued in 2021, however, Santee Cooper has included the \$557,747.29 in its total for this Exception.

In addition, Santee Cooper pays one-third of costs that are identified as not being covered by the insurance policy. For 2021, Santee Cooper has paid \$20,916.64 for those costs. (*See Accounting Materials on V.C. Summer – Unscheduled Costs, attached as Exhibit EE.*)

Finally, in addition to these costs related to the remediation and repair of the transformer, Santee Cooper was required to take steps to replace the power that would have been generated for its customers by V.C. Summer 1 during the time of the transformer fire outage. The V.C. Summer 1 transformer fire outage also was addressed in the analysis by nFront Consulting, described above in the context of the Sugar Camp mine fire. (*See nFront Letter, at 3, 9-10.*) A third case was run that compared the system model and its actual costs to a model of the system had V.C. Summer 1

been available during the time period of the outage caused by the transformer failure and fire. (*See id.*)

Based on the assessment described in the nFront Letter, for the 2021 Reporting Period, Santee Cooper's system energy costs as a result of the V.C. Summer 1 transformer failure and fire are \$5,011,713. Due to differences in various customer and contract provisions, Santee Cooper is evaluating the allocation and recovery mechanisms related to these costs and expects the amount that could be recovered in the future to be less than the amount for the full system. Santee Cooper will update the Court regarding the amount to be recovered in the future.

In summary, the total amount for this exception for the 2021 Reporting Period is \$5,590,376.93. The amounts for each component of the costs for the V.C. Summer 1 transformer failure and fire are the following:

V.C. Summer 1 Cost Component	Amount (Jan 1, 2021-Dec 31, 2021)
Remediation and repair costs that will be covered by insurance policy	\$ 557,747.29
Remediation and repair costs that are not covered by insurance policy	\$ 20,916.64
Santee Cooper system energy costs	\$ 5,011,713.00

7. Named storm event – Tropical Storm Elsa

On July 8, 2021, though briefly a hurricane, Tropical Storm Elsa maintained tropical storm strength through South Carolina. (*See* Nat'l Hurricane Center Tropical Cyclone Report, Hurricane Elsa (Mar. 14, 2022), https://www.nhc.noaa.gov/data/tcr/AL052021_Elsa.pdf.) For Santee Cooper, the event resulted in 57 power outages affecting 10,500 customers. (*See* Email from Mark Bonsall, CEO, Santee Cooper, to Board of Directors (July 9, 2021, 8:25 AM EST), attached as Exhibit FF.) Internal personnel and contractors worked continuously before, during, and after the event to minimize the customers affected and quickly restore power to those who were.

Santee Cooper utilized a mechanism within its accounting system to track costs and expenses related to Elsa, including costs incurred securing infrastructure to minimize adverse impacts and restoration. Santee Cooper’s total cost was \$175,069.99, all incurred during the Reporting Period. The categories of costs and amounts are identified on Exhibit GG, along with a report from Santee Cooper’s accounting system, (*see* Accounting Report of Elsa, attached as Exhibit HH). South Carolina was not declared a Federal Disaster for this event; therefore, no FEMA reimbursement is available.

8. Deviation in Central’s loads

The Exception related to Central’s load variance allows Santee Cooper to defer costs and expenses due to deviations in Central’s actual load as compared to the load projections used in Santee Cooper’s Reform Plan if the variance exceeds 4% during the Reporting Period. (*See* Settlement Agreement, Part IV.B, at 22.) The Settlement Agreement specifies the load variance calculation is based on “billing determinants”—a utility industry term for billable units—“used for allocation of demand costs.” (*Id.*)

In accordance with the Coordination Agreement, Central’s demand costs are recovered through the Supplemental Capacity Cost Rate, the Supplemental Energy-Related Fixed Cost Rate, and the Transmission Service Rate. (*See* Coordination Agreement, at 76-79, app. E at 93, excerpts attached as Exhibit II.) The following table details Central’s total billing determinants by rate category from January through December 2021 as compared to the Reform Plan projections:

	Reform Plan Billing Determinants	Actual Billing Determinants	Difference: MW or MWh / %
Supplemental Capacity (MW)	31,536	30,190	(1,346), -4.3%
Transmission (MW)	31,536	30,190	(1,346), -4.3%
Supplemental Energy (MWh)	14,761,283	14,714,497	(46,786), -0.3%

(See Santee Cooper Reform Plan, Exs. V & VI – Electric Operating Revenues; Central 2021 Cost of Service, Ex. I – Projected Central Rates and Charges, & Ex. II – Actual Central Rate Study, excerpts attached as Exhibit JJ.) As shown on the chart, the Supplemental Capacity and Transmission billing determinant variances exceed the 4% threshold of the Exception.

The value of the load variance is calculated by multiplying the Supplemental Capacity Cost Rate (\$8.68 per kW-month) and the Transmission Service Rate (\$2.80 per kW-month) from Appendix A of the Settlement Agreement by the load variance, which results in an estimated maximum deferral of \$15.449 million. The chart below shows this calculation:

	Difference: MW / %		Rate from Schedule B of Settlement Agreement		Value of Load Variance
Supplemental Capacity (MW)	(1,346)	x	\$8.68 / kW-month	=	\$11,681
Transmission (MW)	(1,346)	x	\$2.80 / kW-month	=	\$3,768
			TOTAL		\$15,449

Santee Cooper incorporates its statements from the 2020 Report regarding the deviation in Central’s load, including the Exception amount for that Reporting Period of \$13.3 Million. (2020 Report, Part III.C.3 at 17.)

D. Comparison of January 1 to December 31, 2021 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.” To determine if Santee Cooper’s costs and expenses exceed its revenues based on the Rate Freeze for the 2021 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 2021 Reporting Period Actual Costs v. Revenues*, attached as Exhibit KK.)

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 \$127 million for the 2021 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 this analysis, Santee Cooper did not exclude the cost of any potential Exceptions from the costs and expenses. If an Exception is recovered in rates, the costs and expenses for the Rate Freeze Period will be recalculated with those deferred costs excluded.

IV. Update on Debt Issuances

In its 2020 Report, Santee Cooper addressed certain topics raised by Central, including related to Santee Cooper's 2020AB issuance. As an update, in August 2021, Santee Cooper undertook a debt refunding, the 2021A series, and borrowed \$350 million in new money, the 2021B series, of which \$189 million will be used to pay down commercial paper and direct purchase loans for capital projects. The 2021A issuance will provide a net present value savings

of \$50 million over the life of the bonds. (See Board materials from August 26, 2021 meeting, attached as Exhibit LL.)

CONCLUSION

Santee Cooper is in compliance with the Amended Final Order and Settlement Agreement. For 2021, the contribution to the Common Benefit Fund was paid when due, and rates have remained frozen. Santee Cooper has not deferred costs and expenses occurring during the 2020 or 2021 Reporting Periods to a future period to be collected in post Rate Freeze rates. In accordance with the Settlement Agreement, eight situations that met the criteria for Exceptions were identified and reported on in the 2021 Report.