Cook v. Santee Cooper

South Carolina Public Service Authority

2022 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 2022 Annual Compliance Report ("2022 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 Excerpts, 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 ("2020 Report"), providing detail on the topics in the Outline of Report Topics and ultimately showing compliance with the terms of the Agreement. Santee Cooper filed its second report, the 2021 Annual Compliance Report ("2021 Report"), on April 29, 2022. Santee Cooper now files this 2022 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 notes that it timely made its third installment payment 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 the second distribution of the settlement funds 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 2022 Report, Santee Cooper identified eleven situations as Exceptions to the Rate Freeze (collectively, the "Exceptions"):

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 Safety and Health Administration
6. Catastrophic failure of equipment and Fire – V.C. Summer 1 Transformer Failure Fire
7. Change in Law – Executive Orders and other actions related to Russian invasion of Ukraine, and Public Enemy – Russia and Russian President Vladimir Putin
8. Named Storm – Izzy
9. Named Storm – Jasper
10. Named Storm – Ian
11. Named Storm – Elliott

At present, the costs directly resulting from the listed Exceptions amount to $405,819,300 for 2022. The costs for the Exceptions identified in the 2020, 2021, and 2022 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 2022.

<u>COMPLIANCE WITH THE *COOK* SETTLEMENT</u>

I. Report time period and supporting information

This 2022 Report covers January 1, 2022 through December 31, 2022 (the "2022 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* 2022 Santee Cooper Annual Report, Note 1(B), at 40, attached as Exhibit C ("2022 Santee Cooper Annual Report").)

On March 20, 2023, Santee Cooper's Board of Directors received the report of its independent auditor, Cherry Bekaert, on its annual financial statements and the 2022 Santee Cooper Annual Report. (*See generally id.*) As reflected in the 2022 Santee Cooper Annual Report, Cherry Bekaert found the following:

> [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, 2022 and 2021, and the respective changes in financial position, and, where applicable, cash flow thereof 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 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 30, 2022

2. For 2022 report[1]:
    a. Class allocation data timely provided
    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 at 2, Exhibit B.)

A. Payment timely made by September 30, 2022 by Santee Cooper

In compliance with the Settlement Agreement, Santee Cooper timely made the third installment payment of $70 million to the Common Benefit Fund on September 26, 2022. 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.) Following wiring instructions from the Settlement Administrator, Santee Cooper wired $70 million to the Escrow Agent, Huntington National Bank, per those instructions on September 26, 2022. (*See* Wells Fargo Wires Payment Detail (Sept. 26, 2022), attached as Exhibit D.)

[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 at 2.) Under the established nomenclature for the reports, this information was provided in the 2020 Report and not the 2021 Report. While the Outline of Report Topics does not contemplate providing class allocation data and bill credits for the 2022 Report, such information is provided in this Report to be consistent with the prior reports and the Common Benefit Fund process.

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, Part 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 second $65 million installment to the Common Benefit Fund was paid on September 24, 2021. The recording and treatment of the $200 million liability and the two $65 million payments did not change between the 2020 Report and the 2022 Report.

The third installment payment of $70 million to the Common Benefit Fund was recorded on September 27, 2022. 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 Third Installment, attached as Exhibit E.) 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.*)

C. Distribution of settlement funds to Class Members

The Court entered an Amended Final Order and Judgment ("Amended Final Order") on July 31, 2020. The Amended Final Order provided for two distributions to the Class Members of Santee Cooper's $200 million settlement liability. The initial distribution occurred in November 2020 and was subject to an equitable pro rata plan of allocation. In 2022, Santee Cooper prepared to make the second distribution following its third installment payment of $70 million.

The Settlement Agreement provided that within 60 days of Santee Cooper's $70 million payment, the Settlement Administrator, Santee Cooper, and the Electric Cooperatives are 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 because (1) it was necessary to update the Class Members' payment information and (2) the Parties proposed an additional distribution via bill credit for Class Members who are current customers and do not cash their checks from the second distribution. (*See* Consent Motion for Approval of Plan for Subsequent Settlement Distributions, attached as Exhibit F.) 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 G.) 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. (The checks were mailed and the credits applied in 2023, and the details of these efforts will be provided in the 2023 Annual Compliance Report.)

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 2022 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[2]
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

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 Report, the frozen rates and charges were posted on the website on July 27, 2020. (2020 Report, Part III.A, at 10.) This information continued to be posted on the website in 2022. (*See* Rates posted on web site confirmation, attached as Exhibit DDD.)

[2] 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.

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, 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 and 2021 Reports. Examples of 2022 bills for affected customers are attached as follows:

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

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 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 2022 to December 2022 showing rates consistent with Schedule A are attached. (*See* Central's 2022 Invoices, attached as Exhibit K.) In addition, after December 31, 2022, 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 2023 invoice for March usage. (*See* Central's April 2023 Invoice, attached as Exhibit L.)

C. Exceptions identified for the period January 1, 2022 through December 31, 2022

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 Reporting Period:

- Change in Law – COVID-19;
- Named Storm – Hurricane Isaias; and

- Central Load Deviation – More than 4% below Reform Plan.

(*See* 2020 Report, III.C, at 12-17.)

The following exceptions were identified for the 2021 Reporting Period:

- Change in Law – COVID-19;
- Change in Law – Act 90;
- Change in Law – ELG regulation revisions regarding Flue Gas Desulphurization by the EPA;
- Change in Law – Order regarding St. Stephen Rediversion Project;
- Fire – Sugar Camp, and Change in Law pursuant to order of the Mine Safety and Health Administration;
  - The amount reported in 2021 ($37,828,343.00) is being updated to $31,342,473.00. (*See infra* Part III.C.5.c.)
- Catastrophic failure of equipment and Fire – VC Summer 1;
  - The amount reported in 2021 ($5,590,376.93) is being updated to $5,522,585.93. (*See infra* Part III.C.6.b.)
- Named Storm – Tropical Storm Elsa; and
- Central Load Deviation – More than 4% below Reform Plan.

(*See* 2021 Report, III.C, at 9-24.)

For the 2022 Reporting Period, Santee Cooper has identified eleven situations qualifying as Exceptions, described further below:

Exception	Amount (Jan. 1, 2022 – Dec. 31, 2022)
1. Change in Law – COVID-19	$849,334.14
2. Change in Law – Act 90	$1,385,911.36
3. Change in Law – ELG regulation revisions regarding Flue Gas Desulphurization by the EPA	$2,477,098.00
4. Change in Law – Order regarding St. Stephen Rediversion Project	$2,852,640.00
5. Fire – Sugar Camp, and Change in Law pursuant to order of the Mine Safety and Health Administration	$294,243,572.00
6. Catastrophic failure of equipment and Fire – VC Summer 1	$3,126,331.94
7. Change in Law and Events Beyond Control – Executive Orders and other actions related to Russian invasion of Ukraine and Public Enemy – Russia and President Vladimir Putin	$77,390,238.00
8. Named Storm – Ian	$3,231,446.80
9. Named Storm – Jasper	$306,175.72

10. Named Storm – Izzy	$154,168.49
11. Named Storm – Elliott	$17,241,983.00

Future events may affect the amounts listed above. In addition to the costs identified specific to each Exception, Santee Cooper also has costs of $2,560,401.20 directly resulting from the costs of debt incurred as to the Cook Exceptions Regulatory Asset that is based on the 2022 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 – COVID 19

As noted in the 2020 and 2021 Reports, 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 2022 Reporting Period because of these changes in law.

Santee Cooper utilizes a tracking mechanism within its accounting system to track costs related to the coronavirus pandemic. The total amount incurred during the 2022 Reporting Period due to these changes in law was $849,334.14. The categories of costs, amounts, and sources of law that caused the 2022 costs are described in the attached chart, 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 M.)

As noted above, Santee Cooper identified this exception in the 2020 and 2021 Reports. In the 2021 Report, Santee Cooper indicated that a portion of the costs under the Change in Law – COVID-19 Exception would not be eligible for reimbursement through FEMA. After the 2021 Report was submitted, FEMA reimbursed Santee Cooper for costs incurred from the first quarter of 2020 (not within the Rate Freeze Period). Santee Cooper has submitted a request for FEMA reimbursement for the period from April 1, 2020 to June 30, 2022. (*See* Santee Cooper FEMA Streamlined Project Application excerpt (Dec. 29, 2022), attached as Exhibit N.) At this time, Santee Cooper does not expect to receive any additional funds to offset the estimated costs for this Exception in 2022; however, based on the prior reimbursement, it is possible that FEMA could cover some of the costs. Santee Cooper will update the Court if any additional FEMA reimbursements are received for COVID-19 costs incurred during the 2022 Reporting Period.

2. 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 2022 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 2022 Reporting Period because of its efforts to comply with this change in law.

a. JRBC 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.[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.

b. 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.

Santee Cooper's IRP is due to the PSC on or about May 15, 2023. In 2022, Santee Cooper had costs associated with meeting Act 90's requirements related to stakeholder involvement and input and in meeting Act 90's requirements for modeling and scenarios, such as software, consultants, and employees designated for IRP compliance.

During the 2022 Reporting Period, Santee Cooper formally initiated the stakeholder input process required by Act 90. Santee Cooper maintained and responded to public comment in the

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[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.

Santee Cooper IRP Input and Feedback Forum, developed to ensure that information and data regarding Santee Cooper's IRP work is available to all interested stakeholders. (Santee Cooper IRP Input & Feedback Forum page, attached as Exhibit O.) Additionally, Santee Cooper held public stakeholder meetings (the "Meetings") for the IRP on March 1, 2022 ("Meeting 1"); April 29, 2022 ("Meeting 2"); June 28, 2022 ("Meeting 3"); and December 8, 2022 ("Meeting 4"). (Santee Cooper About, Integrated Resource Plan, attached as Exhibit P.) To make the Meetings more convenient and accessible for Santee Cooper's customers and stakeholders, all of the Meetings were virtual. The presentations, participant Q&A, videos, and summary reports on the stakeholder meetings are available on Santee Cooper's IRP page on its web site: https://www.santeecooper.com/About/Integrated-Resource-Plan/.

To support Santee Cooper's development of the 2023 IRP, consultants engaged by Santee Cooper to meet Act 90's requirements played an integral role in the IRP process:

- **Vanry Associates:** Vanry Associates assisted in planning and preparing for the Meetings, 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 #1 Summary (Mar. 1, 2022), Santee Cooper IRP 2023 Public Stakeholder Meeting #2 Summary (Apr. 29, 2022), Santee Cooper IRP 2023 Public Stakeholder Meeting #3 Summary (June 28, 2022), Santee Cooper IRP 2023 Public Stakeholder Meeting #4 Summary (Dec. 8, 2022), attached as Exhibit Q.)

- **GDS Associates:** GDS Associates assisted in the development of information that was presented in Meetings 1 and 2 and participated in same.

- **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 each of the Meetings, covering topics nFront advised on including cost comparison metrics, the resource portfolios studied, the net-zero CO2 approach, and other IRP initiatives.

- **Astrape Consulting:** Astrape Consulting performed an effective load-carrying capacity ("ELCC") study and a solar integration study, assessing Santee Cooper's current solar resources and planning for the future, to inform the IRP. Astrape provided updates at Meetings 2, 3, and 4.

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

c. 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.

d. Financial Impact of Compliance with Act 90

In summary, the total amount for the Act 90 exception is $1,385,911.36, and the amounts for each component of the Act 90 costs are as follows:

Act 90 Component	Amount (Jan 1, 2022-Dec 31, 2022)
JBRC compliance	$152,370.07
PSC compliance – IRP	$1,198,612.50 • Consultants: $972,881.61 • Employees: $225,730.89
ORS compliance	$34,928.79
Total	$1,385,911.36

(*See* Costs related to Act 90, attached as Exhibit R.)

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

As discussed in the 2021 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* U.S. Environmental Protection Agency, 2020 Steam Electric Reconsideration Rule, attached 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* U.S. Environmental Protection Agency, Steam Electric Power Generating Effluent Guidelines – 2023 Proposed Rule, attached as Exhibit T.)

In 2021, Santee Cooper undertook activities to comply with the ELG rules and reported on those costs in the 2021 Report. The efforts and costs to comply with the ELG rules affect Santee Cooper's generation resources. Central has provided input regarding Santee Cooper's generation resources, and the Coordination Agreement between Santee Cooper and Central provides for the allocation of costs for generation resources. In 2022, to identify a path forward on the generation resources affected by the ELG rules to ensure the availability of those 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* 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, attached as Exhibit U.) Santee Cooper and Central also agreed that ELG compliance costs arise from a "Change in Law" as an Exception to the Rate Freeze. (*Id.* at 4.)

The costs for 2022 related to compliance with the ELG rules are $2,477,098. (*See* 2022 ELG Expenditures, attached as Exhibit V.)

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

As reported in the 2021 Report and continuing throughout 2022, 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 the ACOE, Santee Cooper accrued $2,852,640 in 2022. (*See* Account Reconciliation for St. Stephen Rediversion Project, attached as Exhibit W.)

Because this Exception has been identified and an amount has been accrued, Santee Cooper is including this Exception in the 2022 Report. Santee Cooper will update the Court about this Exception.

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

As discussed initially in the 2021 Report, 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 2022 is $294,243,572.00.

a. Background on Event and Developments

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 the purchase of coal from Foresight's Sugar Camp Complex. (*See* 2021 Report (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. 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 (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.)

On August 21, 2021, Foresight notified Santee Cooper that the Sugar Camp M-Class and Viking mines had been closed pursuant to a MSHA order based on "elevated carbon monoxide readings." (*See* 2021 Report (attaching Letter from Robert D. Moore, President, Foresight Coal Sales LLC to S.C. Public Service Authority (Aug. 21, 2021), as Exhibit W).) Santee Cooper received a copy of the MSHA order from Foresight on April 20, 2022. (*See* 2021 Report (attaching U.S. Dep't of Labor, Mine Safety & Health Admin., Mine Order, Mine ID 11-03189 (Aug. 14, 2021), as Exhibit MM).)

In its August 21, 2021 letter, Foresight also provided notice that the MSHA order was a force majeure event under Section 8.1 of its contract with Santee Cooper. (*See* 2021 Report, at Exhibit W, at 1.) Foresight explained that the MSHA order required withdrawal of all personnel from the underground mine area. (*Id.*) At that time, the entire area of the Viking and M-Class sections of the mine were subject to the MSHA order. (*Id.*; *see* 2021 Report (attaching Letter from Robert D. Moore, President, Foresight Coal Sales LLC to S.C. Public Service Authority (Sept. 13, 2021), as Exhibit X); *see also* 2021 Report (attaching Letter from Robert D. Moore, President, Foresight Coal Sales LLC, to S.C. Public Service Authority (Dec. 23, 2021), as Exhibit Y).)

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 from the M-Class area of the mine (which was then underway and would potentially allow for mining in the Viking area to recommence), 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." (*See* 2021 Report, at Exhibits X and Y.)

On January 11, 2022, MSHA issued an order modifying the August 14, 2021 MSHA order "to allow [Foresight] to resume normal activities, including production of coal, on the Viking side of the mine." (U.S. Dep't of Labor, Mine Safety & Health Admin., Mine Order, Mine ID 11-03189 (Jan. 11, 2022), attached 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 remains closed. (*See* 2021 Report (attaching Letter from Robert D. Moore, President, Foresight Coal Sales LLC to S.C. Public Service Authority (Mar. 10, 2022), as Exhibit Z).) Santee Cooper has received some coal from the Sugar Camp Complex but continues to not receive the full amount under the contract with Foresight. (*See infra* Efforts to Manage the Effects of the Mine Closure.)

Continuing discussions about the coal that Santee Cooper had expected Foresight to provide under the contract, on April 22, 2022, Santee Cooper's CEO Jimmy Staton wrote Foresight's CEO regarding arrangements for additional coal shipments and pricing under the Foresight contract. (*See* Letter from Jimmy Staton, President and Chief Executive Officer, S.C. Public Service Authority, to Robert D. Moore, President and CEO, Foresight Coal Sales LLC (Apr. 22, 2022), attached as Exhibit Y.) Santee Cooper emphasized to Foresight that "[e]nsuring the ongoing supply of coal pursuant to the agreed terms with Foresight is imperative to Santee Cooper's mission." (*Id.* at 3.)

In July 2022, because Santee Cooper had not been receiving the full amount of the amount contracted for from the Sugar Camp Complex, and despite implementing mitigation efforts, Santee Cooper's coal inventory levels decreased to 47% of normal levels. (*See* Santee Cooper's Form OE-417 Submissions (July 18, 2022 and July 20, 2022), attached as Exhibit Z.) Due to the coal inventory decreasing below 50% of normal levels, Santee Cooper was required to file an Electric Emergency Incident and Disturbance Report and update with the U.S. Department of Energy. (*See id*.) In the Electric Emergency Incident and Disturbance Report and update, Santee Cooper noted that due to issues with contracted coal supply, levels were anticipated to rise above and dip below 50% of normal levels. (*See id*.)

As of April 24, 2023, MSHA had not lifted the order for the M-Class mines, and the MSHA order, as modified, remains in effect. (*See* MSHA Violations, listing Order 9198903 as ongoing as of April 24, 2023, attached as Exhibit AA.)

b. Efforts to Manage the Effects of the Mine Closure

The fire and closure of the mine occurred in August 2021. From September 2021 through January 2022, Santee Cooper received no coal from the Sugar Camp Complex. The loss of coal supply from this mine was significant as it was 50 percent of the total coal Santee Cooper regularly received. Even when the mine partially reopened, only half of the supply was available. In addition to the ongoing communications with Foresight described above, Santee Cooper continued to undertake 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.

As in 2021, as noted above, some replacement coal was identified and purchased in 2022, totaling approximately 1,070,040 tons. (*See* Spot Purchase Report, attached as Exhibit BB.) Of the 1,070,040 tons identified in the report, 750,389 tons were purchased under new spot purchase agreements and 319,651 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 5.) These arrangements were not at the more favorable contract price that Santee Cooper would have received under its contract with Foresight.

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 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

As in the 2021 Report, 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* 2022 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 3 (Apr. 19, 2023), attached as Exhibit CC ("nFront Letter").)

As discussed in the 2021 Report, 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 both 2021 and 2022. These fuel-related revenues are deducted from the system energy costs for a net system production cost.

The 2021 Report identified $37,828,343 in costs resulting from the Sugar Camp Complex fire. The amount of revenues to be deducted from the system energy costs for 2021 has been determined and is $6,485,870. (*See* 2021 Supplement Letter from John Painter, CEO and Executive Consultant, nFront Consulting LLC, to Pamela Williams, General Counsel, S.C. Public Service Authority, at 5 (Apr. 19, 2023), attached as Exhibit DD ("2021 nFront Supplement Letter").) This updates the 2021 amount for the Sugar Camp Complex Exception to a total of $31,342,473, which is net of the fuel-related revenues already received from customers for 2021.

Based on the assessment described in the nFront Letter, for the 2022 Reporting Period, Santee Cooper's net system energy costs resulting from the Sugar Camp Complex fire are $294,243,572. (*See* nFront Letter, at 13.) This amount represents a gross cost of $337,189,279 and a reduction of $42,945,708 from the fuel-related revenues already received from customers for 2022. (*Id.*)

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

a. Background on Event

As discussed in the 2021 Report, 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 (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* Dominion Energy Transformer Failure Evaluation excerpt (Nov. 28, 2022), attached 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.*)

The work to remediate, repair, and replace the transformer is still underway. Dominion contracted with Mitsubishi for a replacement transformer and a spare transformer. Negotiations for the pricing of both are continuing, and Santee Cooper will bear the cost of one third of the cost of each that is not covered by insurance. Dominion submitted an insurance claim in January 2023. Subject to the insurance proceeds and the ongoing work, Santee Cooper has identified its costs as of December 31, 2022.

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.

For the 2022 Reporting Period, Santee Cooper accrued $3,350,789.44 for costs that are expected to be covered by the policy. (*See* Accounting Materials on V.C. Summer 1 – Covered Costs, attached as Exhibit FF.) The 2022 accrual amount is reduced by a credit received in 2022 of $224,457.50 toward the 2021 accrual. For the 2021 Reporting Period, Santee Cooper accrued $557,747.29 for costs that are expected to be covered by the policy. (*See* 2021 Report, at 21.) The 2022 credit toward the 2021 costs effectively reduces the 2021 amount related to costs that are expected to be covered by the policy to a total of $333,289.79, which is the net of the accrual and credit. Because this Report captures the amounts accrued in 2022, including the credit received in 2022, Santee Cooper has included the $3,126,331.94 in the total for this Exception.

In addition, in the 2021 Report, Santee Cooper identified the costs of producing power during the V.C. Summer 1 outage as part of the costs of the exception for 2021. As noted in the 2021 Report, 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 both 2021. These fuel-related revenues have been deducted from the system energy costs. The 2021 Report identified $5,011,713 in system energy costs resulting from the V.C. Summer 1 outage. The amount of revenues to be deducted from the system energy costs for 2021 has been determined and is $67,791. (*See* nFront 2021 Supplement Letter at 5, Exhibit DD.) This adjustment updates the 2021 amount for Santee Cooper's system energy costs as a result of the V.C. Summer 1 outage to a total of $4,943,922, which is net of the fuel-related revenues already received from customers for 2021.

In summary, the total amount for this exception for the 2022 Reporting Period is $3,350,789.44. The total updated amount for this exception for the 2021 Reporting Period is

$5,522,585.93. To the extent proceeds related to this event are received, they will be used to reduce the costs. The amounts for each component of the costs for the V.C. Summer 1 transformer failure and fire for the 2021 and 2022 Reporting Periods are as follows:

V.C. Summer 1 Cost Component	Amount (Jan 1, 2022-Dec 31, 2022)
Remediation and repair costs that are subject to coverage under the insurance policy	$3,350,789.44
Credit toward the 2021 costs received and applied in 2022	($224,457.50)
Total costs in 2022	$3,126,331.94

V.C. Summer 1 Cost Component	Amount (Jan 1, 2021-Dec 31, 2021)
Remediation and repair costs that are subject to coverage under the insurance policy	$557,747.29
Remediation and repair costs that are not covered by insurance policy	$20,916.64
Santee Cooper system energy costs (adjusted)	$4,943,922
Total costs in 2021	$5,522,585.93

7. Change in Law and Events Beyond Control – Executive Orders and other actions related to Russian invasion of Ukraine and Public Enemy – Russia and Russian President Vladimir Putin

On February 24, 2022, Russia invaded Ukraine, starting the Russia-Ukraine War. As explained below, this war has caused volatility in global energy markets. This ongoing event meets two exceptions: (1) Change in Law based on the actions of the United States government in the form of Executive Orders and other Laws (as defined in the Settlement Agreement) regarding United States energy exports and United States energy imports from Russia and the enactment of the "Ending Importation of Russian Oil Act" (H.R. 6968) and (2) Public Enemy based on the Russian Federation, including the President of the Russian Federation, Vladimir Putin, being a public enemy of the United States. As explained below, the war has directly affected Santee

Cooper's natural gas and purchased power prices and caused Santee Cooper to experience increased power production costs.

a. Background on event

The United States' efforts to support Ukraine in its conflict with Russia began before Russia invaded Ukraine in February 2022. In early November 2021, at the request of United States President Joseph R. Biden, Jr., Central Intelligence Agency chief William Burns met with Russian officials to confront Russia about the alleged build-up of troops near Ukraine's border. (*See* Natasha Bertrand et al., *CIA director dispatched to Moscow to warn Russia over troop buildup near Ukraine*, CNN (Nov. 5, 2021), articles and press releases referenced in the "Background on event" section are attached as Exhibit GG.)

As Russia's aggression toward Ukraine continued, the United States made commitments to support Ukraine and to prevent Russia from using its export of energy products, especially natural gas, as a geopolitical tool to quash international support for Ukraine. On November 10, 2021, the United States and Ukraine entered the U.S.-Ukraine Charter on Strategic Partnership, signed by Ukrainian Foreign Minister and the United States Secretary of State. The preamble to the Charter provides,

> The United States and Ukraine . . . [e]mphasize unwavering commitment to Ukraine's sovereignty, independence, and territorial integrity within its internationally recognized borders, including Crimea and extending to its territorial waters in the face of ongoing Russian aggression, which threatens regional peace and stability and undermines the global rules-based order.

(U.S.-Ukraine Charter on Strategic Partnership, U.S.-Ukraine, U.S. Dept. of State (Nov. 10, 2021), attached as Exhibit HH.) (The 2021 Charter replaced the U.S.-Ukraine Charter on Strategic Partnership signed on December 19, 2008.) During the meeting to sign the charter, Secretary of State Antony Blinken told Ukraine Foreign Minister Kuleba that Washington's commitment to

Ukrainian security is "ironclad." (*Ukraine: US top diplomat warns Russia over military buildup*, Deutsche Welle (Nov. 11, 2021), Exhibit GG.) Blinken stated, "Should Russia attempt to use energy as a weapon or commit further aggressive acts against Ukraine, we are committed, and Germany is committed, to taking appropriate action." (*Id.*)

From November 2021 through February 2022, Russia's belligerence toward Ukraine accelerated along with the movement of Russia's movement of troops and weapons. On December 1, 2021, foreign ministers of the member countries of the North Atlantic Treaty Organization ("NATO"), of which the United States is a member, held a ministerial meeting in Riga, Latvia. (Aamer Madhani, *Path to war in Ukraine was Laid in Months of Plans, Warnings*, AP News (Feb. 26, 2022), Exhibit GG.) At this meeting, the foreign ministers of NATO's member countries discussed concerns regarding Russia's military build-up along the border with Ukraine and agreed to launch NATO's crisis management system, which is used to identify whether there is a crisis and begin preliminary planning to respond. (*See id.*; Jim Garamone, *NATO Warns Russia of 'Serious Consequences' for Ukraine Actions*, U.S. Dept. of Defense News (Dec. 1, 2021), Exhibit GG.) Following the meeting, NATO's Secretary General, Jens Stoltenberg, stated if Russian officials "decide to once again use force against Ukraine, then we have made it clear . . . during the NATO Foreign Minister meeting in Latvia today that Russia will then have to pay a high price; there will be serious consequences for Russia . . . And that's a clear message from NATO." (Garamone, *supra*, at 29.)

On December 15, 2021, the President of the Russian Federation, Vladimir Putin, demanded a ban on NATO membership for Ukraine and other ex-Soviet nations, a halt to the deployment of NATO weapons in those countries, and a rollback of NATO forces from Eastern Europe. (Madhani, *supra*, at 29.) The United States and NATO rejected Putin's demands. (*Id.*)

On January 1, 2021, in anticipation of Russia's continued aggression toward Ukraine, the United States enacted an amendment to the Protecting Europe's Energy Security Act of 2019 ("PEESA") through the National Defense Authorization Act for FY2021 (FY2021 NDAA), Pub. L. 116-283. PEESA, as amended, provides the United States with the authority to address Russian natural gas pipeline projects, such as the Nord Stream 2 Pipeline, which the U.S. Department of State has commented creates risks to United States national security, threatens Europe's energy security, and consequently, endangers Europe's political and economic welfare. (Press Release, U.S. Dept. of State, *Protecting Europe's Energy Security Act (PEESA), as Amended* (Apr. 9, 2021), Exhibit GG.)

By January 27, 2022, President Biden warned of a likely Russian invasion of Ukraine within the next month. On February 2, 2022, the Pentagon announced the deployment of 3,000 United States-based forces from the Army's 82nd Airborne Division to Romania, Poland, and Germany to reassure Ukraine of its support. (Press Release, U.S. Dept. of Defense, *U.S. to Deploy 3,000 Troops to Romania, Poland, Germany* (Feb. 2, 2022), Exhibit GG.)

On February 23, 2023, President Biden directed his administration to impose sanctions on the Nord Stream 2 pipeline and its corporate officers, noting, "These steps are another piece of our initial tranche of sanctions in response to Russia's actions in Ukraine. . . Through his actions, President Putin has provided the world with an overwhelming incentive to move away from Russian gas and to other forms of energy." (Press Release, White House, *Statement by President Biden on Nord Stream 2* (Feb. 23, 2022), Exhibit GG.) The day prior, Germany announced it would halt certification of the pipeline due to Russia's aggression. (*Id.*) Following President Biden's directive, the U.S. Department of State sanctioned the Nord Stream 2 Pipeline and its Chief Executive Officer, Matthias Warnig, under PEESA. (Press Release, U.S. Dept. of State, *Sanctioning NS2AG, Matthias Warnig, and NS2AG's Corporate Officers* (Feb. 23, 2022), Exhibit GG.)

On February 24, 2022, Russia began invading Ukraine, and the United States and European Union began issuing more sanctions within hours. (Madhani, *supra*, at 29.) The resulting war and associated sanctions and changes in policy impacted natural gas prices which directly increased the costs of Santee Cooper.

b. Public Enemy Exception

The Russian Federation, including the President of the Russian Federation, Vladimir Putin, is a public enemy of the United States. "An act of a public enemy is one which is a part of an attack by a foreign power, in operations of war, or a similar attack in an organized rebellion where a state of belligerency was recognized." (Restatement (First) of Security § 182 (1941); *see Putin Says Western Sanctions are Akin to Declaration of War*, REUTERS (Mar. 5, 2022); Rachel Treisman, *Russia responds to Zelenskyy's visit by accusing the U.S. of a Proxy War in Ukraine*, NPR (Dec. 22, 2022), articles and press releases referenced in the "Public Enemy Exception" section are attached as Exhibit II.) The United States has taken actions against Putin and Russia that demonstrate the United States considers them to be public enemies:

- February 25, 2022: U.S. Department of the Treasury sanctioned all United States property interests involving Putin and eleven members of the Russian Security Council. (Press Release, U.S. Dept. of Tres., *U.S. Treasury Imposes Sanctions on Russian Federation President Vladimir Putin and Minister of Foreign Affairs Sergei Lavrov* (Feb. 25, 2022).)

- February 28, 2022: U.S. Department of the Treasury's Office of Foreign Assets Control prohibited United States persons from engaging in transactions with the Ministry of Finance of the Russian Federation among other Russian financial entities. (Press Release, U.S. Dept. of Tres., *Treasury Prohibits Transactions with Central Bank of Russia and Imposes Sanctions on Key Sources of Russia's Wealth* (Feb. 28, 2022).)

- March 11, 2022: President Biden issued Executive Order 14068, limiting imports from Russia, exports to Russia, and new investment in any sector of the Russian economy as determined by the Secretary of the Treasury in consultation with the

Secretary of State. Exec. Order No. 14068, 87 Fed. Reg. 14381 (Mar. 11, 2022).

- March 25, 2022: The United States and European Commission announced a joint task force to reduce Europe's reliance on Russian fossil fuels. In the announcement of the task force, the Biden administration set the goal to increase LNG exports to Europe by at least 15B cubic meters in 2022, with larger shipments in the future. (Press Release, White House, *FACT SHEET: United States and European Commission Announce Task Force to Reduce Europe's Dependence on Russian Fossil Fuels* (Mar. 25, 2022).)

- March 31, 2022: U.S. Department of the Treasury's Office of Foreign Assets Control expanded financial sanctions on 21 entities and 13 individuals to prevent Russia from evading earlier sanctions and from acquiring foreign technology with the Ministry of Finance of the Russian Federation among other Russian financial entities. (Press Release, U.S. Dept. of Tres., *Treasury Targets Sanctions Evasion Networks and Russian Technology Companies Enabling Putin's War* (Mar. 31, 2022).)

- April 6, 2022: In response to revelations of Russian atrocities in the city of Bucha in Ukraine, the G7 (including the United States) and European Union announced plans to document and share information about the atrocities and to impose more economic costs on Russia, including through additional sanctions. (Press Release, White House, *FACT SHEET: United States, G7 and EU Impose Severe and Immediate Costs on Russia* (Apr. 6, 2022).) Early the next day, foreign ministers of the G7 and the High Representative of the European Union issued a joint statement condemning the atrocities and welcoming investigations into Russia's potential war crimes and crimes against humanity. (Press Release, U.S. Dept. of State Office of the Spokesperson, *G7 Foreign Ministers' Statement on Russia's War of Aggression Against Ukraine* (Apr. 7, 2022).)

- April 6, 2022: President Biden issued Executive Order 14071, prohibiting new investment in Russia by any United States person and any export or indirect supply of any category of services, as determined by the Secretary of the Treasury in consultation with the Secretary of State, as to any person in Russia. Exec. Order No. 14071, 87 Fed. Reg. 20999 (Apr. 6, 2022).

- April 8, 2022: President Biden signed two bills into law to restrict trade with Russia. Ending Importation of Russian Oil Act, H.R. 6969, 117th Congress (2022) (prohibiting energy imports from Russia); Suspending Normal Trade Relations with Russia and Belarus Act, H.R. 7108, 117th Congress (2022) (raising U.S. tariffs toward Russia and Belarus).

- April 21, 2022: President Biden issued a proclamation, invoking emergency authority pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.) and section 1 of title II of Public Law 65-24, ch. 30, June 15, 1917, as amended (Magnuson Act) (46 U.S.C. 70051), to prohibit Russian-affiliated vessels from entering United States ports due to "the premeditated, unjustified, unprovoked, and brutal and brutal war against Ukraine, which constitute a national emergency by reason of a disturbance or threatened disturbance of international relations of the United States. (Press Release, White

House, *Letter to the Speaker of the House of Representatives and President of the Senate on the Declaration of National Emergency and Invocation of Emergency Authority Relating to the Regulation of the Anchorage and Movement of Russian-Affiliated Vessels to United States Ports* (Apr. 21, 2022).)

- May 8, 2022: To commemorate the end of the Second World War in Europe, G7 leaders, including the United States, stated forthcoming sanctions will include phasing out dependence on Russian energy. (Press Release, G7, *G7 Leaders' Statement* (May 8, 2022).)

- August 2, 2022: U.S. Department of the Treasury's Office of Foreign Assets Control sanctioned Kremlin-connected elites, including Alina Maratovna Kabaeva, President Putin's alleged girlfriend. (Press Release, U.S. Dept. of Tres., *Treasury Sanctions Elites and Companies in Economic Sectors that Generate Substantial Revenue for the Russian Regime* (Aug. 2, 2022).)

The actions described above show the United States directly acting against Russia and Putin's aggression, including in the context of energy. The actions by the public enemies, Russia and Putin, and the United States' response directly affected the price of natural gas in the United States, including costs for Santee Cooper as calculated and described below.

c. Change in Law Exception

In response to the Russia-Ukraine War, in 2022, the Biden administration enacted numerous laws and entered international agreements regarding United States energy exports and imports from Russia. As noted above, the actions by the public enemies of Russia and Putin and the United States' reaction through these changes in law directly affected the price of natural gas in the United States, including for Santee Cooper. Below are changes of law that affected the price of natural gas for Santee Cooper in 2022:

- March 8, 2022: President Biden signed Executive Order 14066, banning the import of Russian oil, liquified natural gas, and coal to the United States. Exec. Order No. 14066, 87 FR 13625 (Mar. 8, 2022).

- March 25, 2022: The United States and European Commission announced a joint task force to reduce Europe's reliance on Russian fossil fuels. In the announcement of the task force, the Biden administration set the goal to increase LNG exports to Europe by at least 15B cubic meters in 2022, with larger shipments in the future. (Press Release, White House, *FACT SHEET: United States and European Commission Announce Task*

Force to Reduce Europe's Dependence on Russian Fossil Fuels (Mar. 25, 2022 (articles and press releases referenced in "Change in Law Exception" section are attached as Exhibit JJ).)

- April 8, 2022: President Biden signed a bill into law to prohibit energy imports from Russia. Ending Importation of Russian Oil Act, H.R. 6969, 117th Congress (2022).

- May 8, 2022: To commemorate the end of the Second World War in Europe, G7 leaders, including the United States, stated forthcoming sanctions will include phasing out dependence on Russian energy. (Press Release, G7, *G7 Leaders' Statement* (May 8, 2022).)

d. Financial Impacts of the Russia-Ukraine War and Managing Those Impacts

Santee Cooper determined the financial impacts of the Russia-Ukraine war with inputs and analysis from an energy market economics expert and guidance and assessment from a production price modeling expert. First, Dr. Roy Shanker, applying over fifty years of experience in electric market pricing, performed an analysis to quantify the impact the Russia-Ukraine War had on United States natural gas prices. Dr. Shanker used "but for" models as described in his report, attached as Exhibit KK. Dr. Shanker's analysis identified the price difference for natural gas caused by the Russia-Ukraine War. (*Id.*)

Next, to quantify the costs to Santee Cooper directly resulting from the Russia-Ukraine War, Santee Cooper used the outcomes of Dr. Shanker's assessment to develop inputs for a model of how its system would have operated if the Russia-Ukraine War had not occurred and then compared that with a model of how its system actually operated during the 2022 Reporting Period if the Sugar Camp coal had been available. Thus, the models were ordered so the calculation of the Russia-Ukraine War costs did not include costs captured by the Sugar Camp costs.

Finally, the models were evaluated by nFront Consulting LLC, which also evaluated models for the Sugar Camp Exception and the VC Summer 1 Exception. 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 are a reasonable assessment of the impacts on Santee Cooper's system of the Russia-Ukraine War. (*See* nFront Letter, at 3.)

As described in the nFront Letter, Santee Cooper's hedging program offset the higher costs of natural gas consumed in Santee Cooper's own natural gas-fuel generating plants by about $62 million, or "89% of the Ukraine War-driven higher costs to Santee Cooper of purchasing natural gas for use in generating energy to serve customers' loads." (*See* nFront Letter, at 13.) Because of the hedging program, while Santee Cooper's fuel costs, including purchased power, were higher by about $150 million, those costs were offset so the total costs were lowered to $89,466,998. (*Id.* at 14.)

Based on these analyses, for the 2022 Reporting Period, Santee Cooper's system energy costs as a direct result of the Russia-Ukraine Changes in Law and Public Enemy circumstances are $77,390,238. This amount represents a gross cost of $89,466,998 and a reduction of $12,076,760 from the fuel-related revenues already received from customers for 2022.

8. Named storm – Winter Storm Izzy

Winter Storm Izzy met the objective winter-storm naming criteria established by The Weather Channel. (Jonathan Erdman, *Here Are the Winter Storm Names For 2021-22*, The Weather Channel (Dec. 9, 2021); *see Winter Storm Izzy Brought Heavy Snow, Ice from the Midwest into the South and Northeast,* The Weather Channel (Jan. 19, 2022), articles related to named storms are attached as Exhibit LL.) Governor Henry McMaster issued an executive order in anticipation of the forecasted hazardous winter weather conditions. (S.C. Exec. Order No. 2022-04 (Jan. 14, 2022), attached as Exhibit MM.)

In anticipation of Winter Storm Izzy, Santee Cooper personnel prepared by readying equipment and supplies for the weather response. (Santee Cooper, *Santee Cooper Continuing Preparation for Winter Weather* (Jan. 14, 2022), Exhibit LL.) As with the previous named storms identified as exceptions, Santee Cooper utilized a mechanism within its accounting system to track costs and expenses related to Winter Storm Izzy, including costs from securing infrastructure to minimize adverse impacts and restoration. Santee Cooper's total cost was $154,168.49, all incurred during the 2022 Reporting Period. The categories of costs and amounts are identified in Exhibit NN, along with a report from Santee Cooper's accounting system. (*See* Accounting Report of Named Storms, attached as Exhibit OO.)

9. Named storm – Winter Storm Jasper

Winter Storm Jasper also met the Weather Channel's winter-storm naming criteria. (Jonathan Erdman, *Here Are the Winter Storm Names For 2021-22*, The Weather Channel (Dec. 9, 2021); *see Winter Storm Jasper Brings Ice to the Gulf, Atlantic Coasts, then Snow to the Carolinas*, The Weather Channel (Jan. 24, 2022), Exhibit LL.) Governor Henry McMaster issued an executive order in anticipation of the forecasted hazardous winter weather conditions. (S.C. Exec. Order No. 2022-06 (Jan. 19, 2022), attached as Exhibit PP.)

In anticipation of Winter Storm Jasper, Santee Cooper personnel prepared by prepared by readying equipment and supplies for the weather response. (Santee Cooper, *Santee Cooper Prepares for Another Round of Winter Weather* (Jan. 19, 2022), Exhibit LL.) Santee Cooper utilized a mechanism within its accounting system to track costs and expenses related to Winter Storm Jasper, including costs from securing infrastructure to minimize adverse impacts and restoration. Santee Cooper's total cost was $306,175.72, all incurred during the 2022 Reporting

Period. The categories of costs and amounts are identified in Exhibit NN, along with a report from Santee Cooper's accounting system. (*See* Accounting Report of Named Storms.)

10. Named storm – Hurricane Ian

On September 30, 2022, Hurricane Ian made landfall in South Carolina as a category 1 hurricane. (*See* Nat'l Weather Service, *Hurricane Ian* (Sept. 30, 2022), Exhibit QQ.) For Santee Cooper, Hurricane Ian affected 70,000 customers and impacted power delivery to six electric cooperatives. (Santee Cooper, *Santee Cooper Restores 70,000 Customers After Hurricane Ian* (Oct. 3, 2022), Exhibit LL.)

Santee Cooper utilized a mechanism within its accounting system to track costs and expenses related to Hurricane Ian, including costs incurred securing infrastructure to minimize adverse impacts and restoration. Santee Cooper's total cost was $3,231,446.80, all incurred during the 2022 Reporting Period. The categories of costs and amounts are identified on Exhibit NN, along with a report from Santee Cooper's accounting system, Exhibit OO.

On September 29, 2022, the Federal Emergency Management Agency ("FEMA") declared Hurricane Ian an emergency for South Carolina during the period from September 25, 2022, to October 4, 2022. (*See* Federal Emergency Management Agency, South Carolina Hurricane Ian, attached as Exhibit RR.) On November 21, 2022, FEMA issued a Major Disaster Declaration for Hurricane Ian. (*See* Federal Emergency Management Agency, Major Disaster Notice (Nov. 21, 2022), attached as Exhibit SS.) Based on the declaration, Santee Cooper was eligible to apply for federal funding to pay 75 percent of approved costs under certain categories such as certain emergency measures. (*Id.*) Starting in December 2022 and continuing, Santee Cooper did apply to FEMA for reimbursement for eligible costs directly resulting from Hurricane Ian. (*See* FEMA Hurricane Ian Projects Status, attached as Exhibit TT.)

The amount reimbursed by FEMA for costs incurred during the 2022 Reporting Period will be deducted from the $3,231,446.80, reducing the amount that may be deferred for collection. As shown in its 2022 Santee Cooper Annual Report, pursuant to Generally Accepted Accounting Principles, Santee Cooper stated that the total amount FEMA may reimburse for all Hurricane Ian-related costs is $ 2.4 million. (*See* 2022 Santee Cooper Annual Report, at 93.) The FEMA reimbursement process is ongoing.

11. Named storm – Winter Storm Elliott

In the week leading up to the 2022 Christmas weekend, Santee Cooper anticipated increases in system load as Winter Storm Elliott moved into the state and temperature forecasts continued to drop. Winter Storm Elliott met the Weather Channel's winter-storm naming criteria. (Jonathan Erdman, *Here Are the Winter Storm Names For 2022-23*, The Weather Channel (Oct. 10, 2022); *Winter Storm Elliott Intensified Into Bomb Cyclone With High Winds, Blizzard Conditions, Flooding*, The Weather Channel (Dec. 24, 2022), Exhibit LL.) Governor Henry McMaster issued an executive order in anticipation of the forecasted hazardous winter weather conditions. (S.C. Exec. Order 2022-40 (Dec. 21, 2022), attached as Exhibit UU.)

In preparation for Winter Storm Elliott, Santee Cooper prepared generating units for the winter weather, maximized generation from the Southeastern Power Administration, and scheduled demand side management resources among Santee Cooper, Central, and municipalities. (*See* Board materials from Jan. 23, 2023 meeting excerpt, attached as Exhibit VV.)

Santee Cooper's system was most affected by Winter Storm Elliott from December 23 to December 26, 2023. By Friday, December 23, 2022, the load was projected to be 5,452 MW for the morning of Christmas Eve, and by early morning on Saturday, December 24, Santee Cooper no longer had sufficient resources to meet the load demand. (*Id.*) Santee Cooper experienced various resource issues and the curtailment of off-system resources. (*Id.*) Through a variety of steps, Santee Cooper continued to meet demand throughout the weather event that coincided with the Christmas holiday. (*Id.*) However, meeting that demand during Winter Storm Elliott came at a cost.

To quantify the costs to Santee Cooper directly resulting from Winter Storm Elliott, Santee Cooper compared a model of how its system actually operated from December 23 to December 26, 2023, to a model that utilized Santee Cooper's Winter planning peak load (a baseline for how Santee Cooper planned for the system to operate under peak load conditions in Winter) and included planned receipt of the coal from Sugar Camp and no Russia-Ukraine War. Like the Russia-Ukraine War cost impact, the models thus were ordered so the calculation of the Winter Storm Elliott costs did not include costs captured by the Foresight or Ukraine costs.

The models were evaluated by nFront Consulting LLC. 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 are a reasonable assessment of the impacts on Santee Cooper's system of Winter Storm Elliott. (*See* nFront Letter, at 3.)

Based on this analysis, Santee Cooper's total cost as a direct result of Winter Storm Elliott was $17,241,983, all incurred during the 2022 Reporting Period. This amount represents a gross cost of $23,791,786 and a reduction of $2,478,758 from the fuel-related revenues already received from customers for 2022.

IV. Comparison of January 1 to December 31, 2022 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 2022 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 2022 Reporting Period Actual Costs v. Revenues, attached as Exhibit WW.)

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 $129 million for the 2022 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 2022 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.

On June 27, 2022, the Santee Cooper Board authorized the use of regulatory accounting for Exceptions identified the 2020 and 2021 Cook Compliance Reports, including any future adjustments to those exception amounts ("Cook Settlement Exception Regulatory Asset"). (*See* Board materials from June 27, 2022 meeting excerpt, attached as Exhibit XX.) The regulatory asset accounting treatment is allowed when certain expenses are incurred in a period other than when they will be collected. (*Id.*) Utilizing regulatory asset accounting helps Santee Cooper maintain appropriate financial metrics until those expenses can be collected. (*Id.*) As reported in the 2022 Santee Cooper Annual Report, as of December 31, 2022, Santee Cooper recorded a total of $358.6 million in the regulatory account associated with the Cook Settlement Exception Regulatory Asset. (2022 Santee Cooper Annual Report, at 44.)

V. Update on Debt Issuances

On September 16, 2021, Santee Cooper presented a plan to the JBRC's Fiscal Oversight Subcommittee for the offering and sale of 2022A series bonds and the exchange of 2022B series bonds as well as to proceed with submitting the transactions to the JBRC for approval. (Board materials from Oct. 25, 2021 meeting excerpt, attached as Exhibit YY.) On January 14, 2022, the JBRC authorized the transaction. (*See* 2021 Report (attaching 2021 Santee Cooper Annual Report, at Exhibit D, at 5); Board materials from Feb. 8, 2022 meeting excerpt, attached as Exhibit ZZ.) In February 2022, Santee Cooper undertook the debt refunding, pricing $931 million of the 2022A series to purchase outstanding high-coupon bonds from investors, and pricing $352 million of the 2022B series to exchange high-coupon bonds with investors. (*See* Board materials from Feb. 8, 2022 meeting excerpt, Exhibit ZZ.) The transaction will provide a net present value savings of $250 million over the life of the bonds. (*Id.*) The 2022AB Refunding bonds closed on February 23, 2022. (*See* 2022 Santee Cooper Annual Report, at 28.)

Consistent with the strategy that was reflected in Santee Cooper's 2019 Act 95 Reform Plan, in August 2022, Santee Cooper presented the plan to its Board to refund and restructure $175 million of the 2016D Revenue Obligation bonds that are scheduled to mature in 2023. (*See* Board materials from Aug. 22, 2022 meeting excerpt, attached as Exhibit AAA.) Santee Cooper also described its plan to issue new bonds of up to $450 million par to fund upcoming capital expenditures from early 2023 through mid to late 2024. (*Id.*) During the August 22, 2022 board meeting, the Board approved a resolution allowing management to take appropriate actions for the offering and sale of bonds as well as to proceed with submitting the transactions to the JBRC for approval. (*Id.*)

On October 18, 2022, the JBRC approved the 2022CDEF transaction, which was comprised the 2022 Tax-Exempt Refunding Series C, Taxable Refunding Series D, Tax-Exempt Improvement Series E, and Taxable Improvement Series F bonds. (*See* Board materials from Oct. 24, 2022 meeting excerpt, attached as Exhibit BBB.) The $172 million from the 2022CD bonds will refinance approximately $175 million of the 2016D Revenue Obligation bonds that are due in 2023. (*See* 2022 Santee Cooper Annual Report, at 28.) The $450 million from the issuance of the 2022EF bonds will pay for capital projects to make improvements to the transmission system and generating units and to ensure environmental compliance. (*Id.*) The bonds were priced on November 8, 2022 and closed on November 15, 2022. (*Id.*)

In addition, 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, 2022, Santee Cooper has borrowed $200 million. (*See* Cook Exception Regulatory Asset Costs, attached as Exhibit CCC.) Thus, in addition to the costs identified specific to each

Exception, Santee Cooper also has costs of $2,560,401.20 directly resulting from the costs of debt incurred as to the Cook Exceptions Regulatory Asset that is based on the 2022 Exceptions. (*See id.*)

CONCLUSION

Santee Cooper is in compliance with the Amended Final Order and Settlement Agreement. For 2022, 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, 2021, or 2022 Reporting Periods to a future period to be collected in post Rate Freeze rates. In accordance with the Settlement Agreement, eleven situations that met the criteria for Exceptions were identified and reported on in the 2022 Report.