Cook v. Santee Cooper

South Carolina Public Service Authority

2024 Annual Compliance Report

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INTRODUCTION

Pursuant to the Settlement Agreement (the "Settlement Agreement" or the "Agreement") for *Cook v. S.C. Public Service Authority*, Case No. 2019-CP-23-6675, the South Carolina Public Service Authority ("Santee Cooper") submits its 2024 Annual Compliance Report ("2024 Report"). The Settlement Agreement requires Santee Cooper to provide an annual report to the Court and Central Electric Power Cooperative, Inc. ("Central") by April 30 of each year through 2030, establishing Santee Cooper's compliance with the terms of Sections IV.A and IV.B of the Agreement related to the Common Benefit Fund and Non-Cash Settlement (the "Rate Freeze"), respectively. (*See* Settlement Agreement Excerpts, Part IV.C, at 23, attached as Exhibit A.)

Santee Cooper, Central, and Class Counsel ("Parties") agreed on an outline of topics for the annual compliance report. (*See* Santee Cooper's Memorandum in Support of Final Approval, Exhibit C - Proposed Outline of Topics for Annual Compliance Report ("Outline of Report Topics"), attached as Exhibit B.) On April 30, 2021, Santee Cooper filed its first report, the 2020 Annual Compliance Report ("2020 Report"), providing detail on the topics in the Outline of Report Topics and demonstrating compliance with the terms of the Agreement. Likewise, Santee Cooper filed its second report, the 2021 Annual Compliance Report ("2021 Report"), on April 29, 2022, filed its third report, the 2022 Annual Compliance Report ("2022 Report"), on April 28, 2023, and filed its fourth report, the 2023 Annual Compliance Report ("2023 Report"), on April 30, 2024, each demonstrating compliance with the terms of the Agreement. Santee Cooper now files this 2024 Report to further show its continued compliance with the Settlement Agreement.

Regarding the Common Benefit Fund, Santee Cooper notes that it timely made all three installment payments to the Fund and recorded the payment to the balance sheet, and that no costs or expenses were recovered or deferred as a result of the recording. Santee Cooper also took steps to prepare for distributions of the settlement funds via bill credits to Class Members in 2024.

Regarding the Rate Freeze, Santee Cooper highlights that rates remained frozen for Central and Santee Cooper's residential, commercial, lighting, and industrial customers through December 31, 2024. As described further below, for the 2024 Report, Santee Cooper is reporting on two situations that qualified as Exceptions to the Rate Freeze. Santee Cooper identified additional situations that would have qualified as Exceptions, however, Santee Cooper is reserving reporting on them based on resolution of those additional situations as reflected in the *Cook* Settlement Dispute Resolution Agreement ("Exceptions Resolution Agreement") and pending Court approval of same. (*See* Exceptions Resolution Agreement, attached as Exhibit C.) Accordingly, Santee Cooper is reporting on the below events:

1. Change in Law – Effluent Limit Guidelines ("ELG") regulation revisions regarding Flue Gas Desulphurization by the United States Environmental Protection Agency ("EPA")

2. Fire – Foresight Coal Supply LLC Sugar Camp Mine Complex, and Change in Law pursuant to order of the Mine Safety and Health Administration

At present, the costs directly resulting from the listed Exceptions are $208,585,409 for 2024. Additionally, with regards to reporting on the Rate Freeze, Santee Cooper's costs and expenses did not exceed its revenue in 2024.

COMPLIANCE WITH THE *COOK* SETTLEMENT

I. Report time period and supporting information

This 2024 Report covers January 1, 2024 through December 31, 2024 (the "2024 Reporting Period"). Santee Cooper's fiscal year is January 1 to December 31, and it utilizes the FERC Uniform System of Accounts and follows Generally Accepted Accounting Principles. (*See* 2024 Santee Cooper Annual Report, Note 1(B), at 40, attached as Exhibit D ("2024 Santee Cooper

Annual Report”).)

On March 14, 2025, Santee Cooper’s Board of Directors received the report of its independent auditor, PricewaterhouseCoopers, LLP (“PwC”), on its annual financial statements and the 2024 Santee Cooper Annual Report. (*See generally id.*) As reflected in the 2024 Santee Cooper Annual Report, PwC found the following:

> [The] accompanying financial statements present fairly, in all material respects, the respective financial position of the business-type activities, and fiduciary activities of Santee Cooper as of December 31, 2024 and 2023, and the respective changes in financial position, and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

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

II. Common Benefit Fund – Section IV.A

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

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

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

2. For 202[4] report[1]:
    1. Class allocation data
    2. Bill credits timeline provided

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

(Outline of Report Topics, Exhibit B.)

A. Payment timely made by Santee Cooper

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

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

As previously reported, Santee Cooper expensed and recorded the full $200 million settlement liability in 2019. Santee Cooper subsequently paid the annual installments in 2020, 2021, and 2022, and in each of those years, recorded the entries to the balance sheet only. (*See* 2020 Report, Part II.C.1-2; 2021 Report, Part II.B; 2022 Report, Part II.B.) No costs or expenses were recovered or deferred as a result of recording the payments in this manner.

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

C. Distribution of settlement funds to Class Members

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

As further background, the Settlement Agreement provided that within 60 days of Santee Cooper's third annual installment (the $70 million payment), the Settlement Administrator, Santee Cooper, and the Electric Cooperatives were to provide Class Members with their payments via check or bill credit, making the deadline to do so November 25, 2022. On November 17, 2022, the Parties submitted a Consent Motion for Approval of Plan for Subsequent Settlement Distributions requesting an extension of the deadline to make the payment to Class Members. The extension was necessary to allow updates to the Class Members' payment information and because the Parties proposed an additional distribution via bill credit for Class Members who were current customers but did not cash their checks from the second distribution. (*See* 2023 Report, Part.II.C, at 5 (attaching Consent Motion for Subsequent Settlement Distributions as Exhibit D).)

On December 13, 2022, the Court issued an Order Approving Plan for Further Administration and Subsequent Distributions of Settlement. (*See* 2023 Report, Part.II.C, at 6 (attaching Order Approving Plan for Further Administration and Subsequent Distributions of Settlement as Exhibit E).) In the Order, the Court extended the deadline for the Settlement

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

1. Second distribution via application of bill credits

On February 15, 2023, the Settlement Administrator provided a file to Santee Cooper identifying 49,521 accounts for which Santee Cooper would issue bill credits.[3] (*See* 2023 Report, Part.II.C.1, at 6-7.) Santee Cooper applied a credit to 44,691 active customer accounts on February 23, 2023. (*Id.*) During the application process, Santee Cooper identified 4,830 accounts that were no longer active, which meant that instead of bill credits, these accounts would receive checks. A list of these inactive accounts was sent to the Settlement Administrator on March 2, 2023, so the Settlement Administrator could issue checks. The 44,690 Class Members who received bill credits plus the 4,830 inactive accounts whose information was provided to the Settlement Administrator equals the 49,521 identified in the data sent by the Settlement Administrator to Santee Cooper on February 15, 2023. (*Id.* at 7.)

2. Third distribution via application of bill credits

After the second distribution, the Settlement Administrator identified the Class Members

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[2] Under the terms of the Settlement Agreement, Class Members would receive a bill credit if their pro-rata share of the distribution was less than $25.00. (Settlement Agreement, Part V.D.1, at 28.)
[3] Per the terms of the Order Approving Plan for Further Administration and Subsequent Distributions of Settlement, the Settlement Administrator issued checks to Class Members who were not eligible to receive bill credits.

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

On October 13, 2023, the Settlement Administrator provided a file to Santee Cooper identifying 8,568 accounts for which Santee Cooper would issue bill credits. (*See* 2023 Report, Part.II.C.2, at 7.) Based on the information from the Settlement Administrator, Santee Cooper provided a credit to 8,427 active customers on bills on October 26, 2023. During the application process, Santee Cooper identified 141 accounts that were no longer active and thus could not receive a bill credit. A list of these inactive accounts was sent to the Settlement Administrator on November 6, 2023. (*Id.* at 8.) Santee Cooper also sent the funds associated with the 141 unapplied credits to the Settlement Administrator on November 9, 2023. The 8,427 Class Members who received bill credits plus the 141 inactive accounts whose information was provided to the Settlement Administrator equals the 8,568 identified in the data sent by the Settlement Administrator to Santee Cooper on October 13, 2023.

3. Additional distribution efforts

After the third distribution, the Settlement Administrator and Class Counsel continued to identify alternative means for providing Class Members with inactive accounts with a distribution. On March 26, 2025, the parties filed their plan for further administration and subsequent distributions to customers to maximize Class Members' realization of the payments. (*See* Second Consent Motion for Approval of Plan for Subsequent Settlement Distributions, attached as Exhibit E.) The Consent Motion noted that as of October 1, 2024, a total of 1,007,587 Class Members successfully claimed 83.69% of disbursed funds, totaling $135,671,971.24 in check and credit payments. As of March 17, 2025 the outstanding balance of the 550,414 settlement checks that remained uncashed totaled $26,467,934.65. (*Id.* at 2.) Should subsequent distribution efforts involve further action by Santee Cooper, it will provide a summary of distribution efforts in future reports.

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

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

The Outline of Report Topics for the Annual Compliance Report identified the following information to be reported for the 2024 Reporting Period related to the Non-Cash Settlement, which are addressed in this part of the Report:

1. Posting of frozen rates on web site – Frozen rate schedules

and Schedule B[4]

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

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

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

(Outline of Report Topics, Exhibit B.)

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

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

After the redesigned web site was launched, Santee Cooper continued to report that "Santee Cooper is freezing most customer rates from August 2020 through December 2024" on its "Rates"

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

webpage, along with rate schedules. (*See* screenshot of "Rates" webpage, https://www.santeecooper.com/rates/, attached as Exhibit F.) Though December 31, 2024, Santee Cooper listed "Cook Settlement Frozen Rates" on the bottom of its site, which links to the Resolution Authorizing Implementation of Settlement Including Rate Freeze for *Cook* & Other V.C. Summer Litigation for Claims. This resolution includes the frozen rates and Schedule B from the *Cook* Settlement Agreement. (*See, e.g.*, screenshots of the "Cook Settlement Frozen Rates" link at the bottom of the webpage and the posting of the frozen rates and charges, attached as Exhibit G.) With the end of the Rate Freeze, Santee Cooper's Rate page on the website was updated to reflect the Board's approval of new base rates for customer bills effective April 1, 2025 (*See* "Rates" webpage (Jan. 1, 2025), https://www.santeecooper.com/rates/.)

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

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

1. Retail Rate Freeze

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

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

The Rate Freeze remained in effect as reported in the 2020 through 2023 Reports and continued to apply to customer bills through the end of the 2024 Reporting Period. Examples of 2024 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 Variable Fixed Cost Rate, Transmission Service Rate, Delivery Service Charge, and the Monthly Supplemental Fuel Cost Rate from Schedule A of the Settlement Agreement. (*See* 2020 Report, Parts III.B.2, at 12 (attaching Central Billing Screenshots as Exhibit X).) Central's invoices from January 2024 to December 2024 showing rates consistent with Schedule A are attached. (*See* Central's 2024 Invoices, attached as Exhibit K.) After December 31, 2024, 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 2025 invoice for March usage. (*See* Central's April 2025 Invoice, attached as Exhibit L.)

3. End of Rate Freeze Period

Pursuant to the Settlement Agreement, Santee Cooper agreed to freeze customer rates consistent with the Reform Plan beginning in August of 2020 and continuing through the end of 2024. (*See* Settlement Agreement, Part IV.B, at 21, Exhibit A.) Rates remained frozen for Central and Santee Cooper's residential, commercial, lighting, and municipal customers for the entire 2024 Reporting Period. On December 31, 2024, the Rate Freeze period ended.

C. Exceptions identified for the period January 1, 2024 through December 31, 2024

The Settlement Agreement 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 the following 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." Under the Settlement Agreement, the costs for qualifying Exceptions may be deferred for collection in the future. Under the Settlement Agreement, parties are additionally allowed to request the appointment of an independent auditor to review Santee Cooper's and Central's compliance with the terms of the Settlement Agreement. (Settlement Agreement, Part IV.C, at 23.)

To account for any exceptions to the Rate Freeze, Santee Cooper reported the following Exceptions and interest in its 2020 – 2023 Annual Compliance Reports:

Exception	**2020**	**2021**	**2022**	**2023**	**Amount**
Change in Law – COVID-19	•	•	•		$9,493,196.60
Change in Law – Act 90		•	•	•	$4,551,939.69
Change in Law – ELG regulation revisions regarding Flue Gas Desulphurization by the EPA		•	•	•	$63,355,381.00

Exception	2020	2021	2022	2023	Amount
Fire – Sugar Camp, and Change in Law pursuant to order of the Mine Safety and Health Administration		•	•	•	$460,862,844.00
Catastrophic failure of equipment and Fire – VC Summer 1		•	•	•	$14,661,308.04
Change in Law – Order regarding St. Stephen Rediversion Project		•	•	•	$9,746,520.00
Change in Law and Events Beyond Control – Executive Orders and other actions related to Russian invasion of Ukraine and Public Enemy – Russian and President Vladimir Putin			•		$77,390,238.00
Named Storms	•	•	•	•	$23,008,015.95
Central Load Deviation – More than 4% below Reform Plan	•	•			$28,797,000.00
Change in Law – Federal Energy Regulatory Commission ("FERC") license issuance regarding Santee Cooper Hydroelectric Project No. 199				•	$784,893.93
Change in Law – FERC Order 881				•	$763,959.03
Act of God and Flood – Winyah Generating Station Rain Event				•	$260,612.20
Interest on Regulatory Asset			•	•	$23,257,809.85
Cumulative Exceptions Total					**$716,934,018.29**

(*See* 2020 Report, III.C, at 12-17; 2021 Report, III.C, at 9-24; 2022 Report, III.C, at 13-39; and 2023 Report, III.C. at 13-36.)

Disputes over Santee Cooper's reported Exceptions costs arose shortly after the filing of the 2020 and 2021 Annual Compliance Reports. In response to the Reports, Central and Class Counsel requested the appointment of an independent auditor to ensure Santee Cooper's compliance with the terms of the Settlement Agreement, (*See* Central Electric Power Cooperative Inc. Request for Appointment of Independent Auditor, July 12, 2021 attached as Exhibit M), and additionally to determine the applicability of several Exception costs reported by Santee Cooper.

(*See* Motion to Determine Application of Settlement Exceptions and for Appointment of an Independent Auditor, September 9, 2022, attached as Exhibit N.)

Central and Class Counsel alleged that Santee Cooper's reported costs for several Exceptions were ineligible for deferment or otherwise failed to qualify as an Exception under the Settlement Agreement. (*Id.* at Exhibits M and N.) Santee Cooper continued to engage in discussions with Central and Class Counsel concerning the Exceptions during this period. The Court declined to appoint an independent auditor in response to both Central and Class Counsel's requests. (*See* Response to Motion to Determine Application of Settlement Exceptions and for Appointment of an Independent Auditor, attached as Exhibit O.) The Court stated that the primary matter being contested was the potential deferment of Santee Cooper's costs related to the Sugar Camp mining complex under the fire exception of the Settlement Agreement. (*Id.*) Although the Court refrained from determining the applicability of particular Exceptions, it noted that nothing in the language of the Settlement Agreement limited the application of the fire exception to Santee Cooper owned property. (*Id.* at 2.) The Court thereafter concluded the appointment of an independent auditor was not necessary, acknowledging the parties' ongoing dispute discussions and the continuation of the Rate Freeze. Subsequently, Santee Cooper discussed and negotiated various disputes related to the reported Exceptions with Central and Class Counsel. The parties participated in mediation on October 16 and 17, 2024 and after mediation continued to engage in negotiations regarding the Exceptions disputes.

Santee Cooper, Central, and Class Counsel ultimately reached a resolution of the outstanding disputes and executed the Exceptions Resolution Agreement on February 25, 2025. (*See* Exceptions Resolution Agreement, Exhibit C; *see also* Santee Cooper Board Resolution, February 12, 2025 (approving execution of the Exceptions Resolution Agreement), attached as

Exhibit P.) The Exceptions Resolution Agreement was executed subject to the approval by the Court. This 2024 Annual Compliance Report is submitted consistent with the Exceptions Resolution Agreement, including with respect to the Exceptions costs that the parties have agreed Santee Cooper will recover. To the extent the Exceptions Resolution Agreement does not receive Court approval, Santee Cooper will supplement this 2024 Annual Compliance Report to identify all events qualifying as exceptions in 2024.

In exchange for the Exceptions Resolution Agreement fully and finally resolving several categories of specific disputes between the parties, Santee Cooper agreed that the total costs it may recover for Exceptions is $550 million ("Resolution Amount"). The Resolution Amount consists of recoverable costs and expenses incurred during the Rate Freeze attributable to three specific contexts: (1) the Mine Safety and Health Administration Order and Fire resulting in Foresight's Sugar Camp Mine closure, (2) Executive Orders and actions related to the Russian invasion of Ukraine and Public Enemy actions by Russia and Vladimir Putin, and (3) accrued interest incurred during the Rate Freeze period to finance the Exceptions. (*Id.* at 2.) Santee Cooper additionally retained the right to collect debt service after the Rate Freeze on the ELG Exception consistent with Santee Cooper's retail ratemaking Cost of Service calculations and Central's Cost of Service under the parties' Coordination Agreement. Therefore, subject to Court approval of the Exceptions Resolution Agreement,

> with the exception of (i) the Resolution Amount, and (ii) debt service on the ELG Exception described in subsection 1.b, Santee Cooper waives and relinquishes all rights it has or had to recover, or defer recovery of, any costs attributable to or expenses incurred during the Rate Freeze Period relating to any Exception event or condition occurring during the Rate Freeze Period, without regard to whether such Exception event or condition, or cost or expense relating thereto, was known or unknown, foreseen or unforeseen, accrued or unaccrued, or whether or not raised in a Prior Compliance Report or in the Annual Report to be filed under the Cook Settlement

> Agreement in 2025 describing Santee Cooper's efforts to comply with the settlement terms and identifying Exceptions to the Rate Freeze for the year 2024 ("Excluded Amounts").
>
> Without limiting the foregoing, Excluded Amounts shall include any amounts relating to: (i) the following Identified Exceptions, and (ii) the following Exceptions for events or conditions occurring in 2024 that were not identified in Prior Annual Compliance Reports:…

(Exceptions Resolution Agreement, at 2-3.)

On March 14, 2025, Central, Santee Cooper, and Class Counsel filed a Joint Motion seeking the Court's approval of the Exceptions Resolution Agreement. On March 25, 2025, the parties filed a Joint Memorandum in Support of the Motion for Approval, arguing that the Exceptions Resolution Agreement is in the best interest of all parties and resolves the disputes that have been ongoing for nearly four years. The Court has scheduled a hearing for the Joint Motion for Approval.

Pursuant to the terms of the Exceptions Resolution Agreement, for the 2024 Reporting Period, Santee Cooper has identified costs related to the following permitted and non-waived Exceptions:

Exception	**Amount (Jan. 1, 2024 – Dec. 31, 2024)**
1. Change in Law – ELG regulation revisions regarding Flue Gas Desulphurization by the EPA	$180,463,505.00
2. Fire – Sugar Camp, and Change in Law pursuant to order of the Mine Safety and Health Administration	$28,121,904.00

In addition to the costs identified for the above Exceptions, Santee Cooper additionally has $25,905,443.10 in costs directly resulting from the debt incurred as to the *Cook* Exceptions Regulatory Asset that is based on previously reported Exceptions. (*See infra* Part V.)

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 for Exceptions subject to and released by the Exceptions Resolution Agreement were not deferred to periods outside of the Rate Freeze Period.

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

As discussed in the 2022 and 2023 Reports, wastewaters from electrical generating units that operate using steam are regulated by the EPA through its publication of the steam electric power Generating Effluent Guidelines and Standards ("Effluent Limit Guidelines" or "ELG"). ELGs are technology-based regulations based on the performance and costs of demonstrated wastewater control and treatment technologies.

On October 13, 2020, the EPA issued a new final rule imposing requirements related to Flue Gas Desulphurization ("FGD"). (*See* 40 CFR Part 423; *see also* 2022 Report, Parts III.C.3, at 18 (attaching U.S. Environmental Protection Agency, 2020 Steam Electric Reconsideration Rule as Exhibit S).) This rule imposed performance standards that require Santee Cooper to incur costs and expenses to install additional wastewater treatment systems for the Winyah and Cross generating stations. The EPA issued a proposed 2023 rule, which was fully promulgated in 2024 as a final rule. (*See* 40 CFR Part 423; *see also* U.S. Environmental Protection Agency, Steam Electric Power Generating Effluent Guidelines – 2024 Final Rule, attached as Exhibit Q.) The 2024 final rule, however, allows for Santee Cooper to comply with the 2020 final rule as long as units at Winyah and Cross generating stations are retired by 2034. *See* 40 CFR Part 423.19h.

In 2021, Santee Cooper undertook efforts and incurred costs to comply with the ELG rules which affected Santee Cooper's generation resources as provided in the 2021 Report. The Coordination Agreement between Santee Cooper and Central provides for the allocation of costs for generation resources. As previously reported, in 2022, to assure the availability of generation resources in the future, Santee Cooper and Central agreed that Santee Cooper would comply with the ELG rules through certain options for the Winyah and Cross generating stations. (*See* 2022 Report, III.C.3., at 18 (attaching Memorandum of Understanding and Agreement by and between South Carolina Public Service Authority and Central Electric Power Cooperative, Inc. related to the Treatment of Steam Electric Effluent Limitation Guidelines as Exhibit U).) Santee Cooper and Central also agreed, in 2022, that ELG compliance costs arise from a "Change in Law" as an Exception to the Rate Freeze. (*Id.* at 4.)

Beginning in 2023, and continuing throughout the 2024 Reporting Period, Santee Cooper incurred costs, including consultant costs, related to the design, engineering, materials, and construction of wastewater technology treatment systems for Cross and Winyah. Accordingly, the expenses for 2024 related to the ELG rules is $180,463,505.00. (*See* 2024 ELG Expenditures, attached as Exhibit R.)

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

As outlined in the 2021, 2022, and 2023 Reports, in August 2021, a fire in the mines of Santee Cooper's primary coal supplier led to the closure of the mines at that site by the U.S. Mine Safety and Health Administration ("MSHA") by order pursuant to Section 103(k) of the Mine Act. This event falls under two exceptions in the Settlement Agreement: a fire and a Change in Law based on the order issued by MSHA. As explained below, residual effects of the event continued in 2024 caused by Santee Cooper experiencing increased costs from purchasing replacement coal and costs to replace the power that would have been generated from the planned supply of coal from Foresight for the 2021 to 2023 Reporting Periods. The amount of this exception for 2024 is $28,121,904.00.

a. Background on Event and Developments[5]

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

On August 21, 2021, Foresight notified Santee Cooper that the Sugar Camp M-Class and Viking Mines had been closed pursuant to an MSHA order based on "elevated carbon monoxide readings" and that the MSHA order was a force majeure event and required withdrawal of all personnel from the underground mine area. (*See* 2021 Report, at 17 (attaching Letter from Robert D. Moore, President, Foresight Coal Sales LLC to S.C. Public Service Authority (Aug. 21, 2021) as Exhibit W).) From September 2021 through January 2022, Santee Cooper received no coal from the Sugar Camp Complex. On January 11, 2022, MSHA issued an order "to allow [Foresight] to resume normal activities, including production of coal, on the Viking side of the mine." (*See* 2022 Report at 21 (attaching U.S. Dep't of Labor, Mine Safety & Health Admin., Mine Order, Mine ID 11-03189 (Jan. 11, 2022) as Exhibit X).) On March 10, 2022, Foresight notified Santee

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

Cooper that it was able to resume operations in the Viking portion of the mine, though the M-Class portion of Sugar Camp Complex remained closed. (*See* 2021 Report, at 18 (attaching Letter from Robert D. Moore, President, Foresight Coal Sales LLC to S.C. Public Service Authority (Mar. 10, 2022) as Exhibit Z).) As of April 29, 2025, MSHA had not lifted the order for the M-Class Mine, and the MSHA order, as modified, remains in effect. (*See* MSHA Violations, listing Order 9198903 as ongoing as of April 29, 2025, attached as Exhibit S.)

b. Efforts to Manage the Effects of the Mine Closure

In 2024, Santee Cooper continued to experience residual impacts from purchasing replacement coal at prices above the Foresight contract price but lower than the market price from 2021 to 2023. Discussions and negotiations continued regarding Foresight's supply of coal to Santee Cooper and ability to meet contractual volume in addition to makeup tonnage. For the 2024 Reporting Period, Foresight agreed to ship the full amount of coal due under the contract to Santee Cooper. Since Foresight agreed to ship the full contract volume of coal, Santee Cooper did not need to make spot purchases for replacement coal in 2024.

On July 23, 2024, Santee Cooper and Foresight executed a revised coal supply contract. The revised contract sets forth the price and quantity for make-up tonnages owed by Foresight under the previous agreement and also includes a parental guaranty providing assurance of Foresight's future performance and delivery of the agreed upon coal tonnages. The negotiated price for the make-up coal is less than currently projected market pricing, and when Santee Cooper negotiated the revised contract, Santee Cooper used the market conditions at that time to estimate fuel expense savings resulting from the revised contract would be approximately $185.6 million.

After the end of the Rate Freeze, fuel expenses will pass directly to customers through Central's Cost of Service under the Coordination Agreement and through Santee Cooper's fuel recovery mechanisms in its retail rate schedules. As a result, the benefit of any savings realized for the fuel expenses will be passed on to customers.

c. Financial Impact of Mine Closure

In the 2021-2023 Reports, to quantify the costs to Santee Cooper directly resulting from the Sugar Camp fire and related MSHA order, Santee Cooper compared a model of how its system actually operated during the Reporting Period to a model of how its system would have operated if the supply of coal expected from the Sugar Camp Complex had continued as if the fire had not occurred and MSHA had not ordered the mine closed. However, in the case of 2024 impacts, the Sugar Camp fire and related MSHA order had no impact on the dispatch of Santee Cooper's resources because Santee Cooper dispatches its coal units by reference to the cost of replacing the coal to be burned by operating the units. While the Sugar Camp fire and related MSHA order did not impact Santee Cooper's cost of replacing the coal burned in 2024, Santee Cooper conducted a multi-step analysis to compare the coal costs Santee Cooper actually incurred in 2024 to the coal costs Santee Cooper would have incurred in 2024 had the Sugar Camp fire and related MSHA order not occurred. The analysis was 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 analysis, 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* 2024 Energy Costs Impacts Letter from John Painter, CEO and Executive Consultant, nFront Consulting LLC, to Carmen Thomas, General Counsel, S.C. Public Service Authority, at 5 (Apr. 16, 2025), attached as Exhibit T ("nFront Letter").)

As stated in the 2021, 2022, and 2023 Reports, due to differences in various contract provisions with customers, Santee Cooper evaluated the allocation and recovery mechanisms related to these costs. Based on their agreements, which included rates or components that were not included in the Rate Freeze, certain customers paid toward the fuel costs in 2024. These fuel-related revenues were accounted for in Santee Cooper's analysis of the 2024 impact on coal costs.

Based on the assessment described in the nFront Letter, for the 2024 Reporting Period, the impacts of the Sugar Camp Complex fire to Santee Cooper's fuel costs and revenue totaled $28,121,904.00. (*See* nFront Letter at 3.) This amount represents a gross cost of $29,385,730 and a reduction of $1,263,825 from the fuel-related revenues already received from customers for 2024. (*Id.*)

IV. Comparison of January 1 to December 31, 2024 revenues and costs

Section IV.B of the Settlement Agreement states, "to the extent its costs and expenses incurred or otherwise appropriately attributable to the Rate Freeze Period . . . exceed its revenues based on the Rate Freezes described in Section IV.B, Santee Cooper will not include such excess at any point in time in its cost of service formula to be passed on to its customers through increased rates or charges." Accordingly, to determine if Santee Cooper's costs and expenses exceed its revenues based on the Rate Freeze for the 2024 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 2024 Reporting Period Actual Costs v. Revenues, attached as Exhibit U.)

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 $41.3 million for the 2024 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 agreed to the total Resolution Amount of $550 million in recoverable costs and expenses incurred during the Rate Freeze for certain Exceptions occurring during the Rate Freeze. For purposes of the Actual Costs v. Revenues analysis, consistent with its 2024 Santee Cooper Annual Report, the Exceptions Resolution Agreement's Excluded Amounts relating to Exceptions previously identified and those identified but not reported for 2024 will not be included in the *Cook* Regulatory Asset. Santee Cooper excluded the cost of all other potential Exceptions, aside from those expressly provided for under the Exceptions Resolution Agreement, from the costs and expenses. (*See* 2024 Santee Cooper Annual Report at 59.)

As described in the 2022 and 2023 Report, Santee Cooper approved a regulatory asset accounting treatment for Exceptions identified in the 2020 and 2021 *Cook* Compliance Reports to permit future adjustments to exception amounts when certain expenses are incurred in a period other than when they would be collected. (*See* 2022 Report, Part.IV, at 41 (attaching June 27, 2022 board meeting excerpt as Exhibit XX); 2023 Report, IV, at 38 (attaching August 28, 2023 board meeting excerpt as Exhibit ZZ).) Utilizing regulatory asset accounting helps Santee Cooper maintain appropriate financial metrics until those expenses can be collected. (*Id.*) On August 27, 2024, the Santee Cooper Board authorized the use of regulatory accounting for new 2023 *Cook*

Exceptions that were not previously approved on June 27, 2022. (*See* 2024 Santee Cooper Annual Report at 43; *see also* Santee Cooper Board Resolution, August 28, 2023, attached as Exhibit V.) As reported in the 2024 Santee Cooper Annual Report, on February 25, 2025, Santee Cooper executed the Exceptions Resolution Agreement. As a result of the Exceptions Resolution Agreement, as of December 31, 2024, Santee Cooper adjusted the balance of the *Cook* Exceptions Regulatory Asset to $550 million and recognized net expenses of $153.8 million previously deferred. (2024 Santee Cooper Annual Report at 43, 93-94.)

V. Update on Debt Issuances

In March 2024, Santee Cooper presented its plan to its Board to issue new bonds of up to $815 million par to fund upcoming capital expenditures from July 2024 through early to mid-2026. (*See* Board materials from March 25, 2024 meeting excerpt, attached as Exhibit W.) During the March 25, 2024 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.*) In May 2024, Santee Cooper management requested that the JBRC approve the issuance of up to $445 million par of new bonds for capital expenditures through mid-2025, and on May 28, 2024, the JBRC approved this request. The 2024ABC transaction was comprised of 2024 Tax-Exempt Improvement Series A, Tax-Exempt Refunding Series B, and Taxable Improvement Series C bonds. (*See* Board materials from August 27, 2024 meeting excerpt, attached as Exhibit X.) The $372 million in 2024A series bonds, and $73 million in 2024C series bonds will pay for capital project improvements related to transmission, generation, and distribution as well as environmental compliance. (*See* 2024 Santee Cooper Annual Report at 27; *see also* Board materials from August 27, 2024 meeting excerpt, Exhibit X.) In addition to the $445 million of new bonds, Santee Cooper also issued $865.1 million of the

2024B refunding bonds to refinance approximately $925.2 million of existing tax-exempt debt. (*See* 2024 Santee Cooper Annual Report at 27.) The transaction will provide a net present value savings of $101.7 million over the life of the bonds. (*Id.*) The bonds were closed on July 30, 2024. (*Id.* at 61.)

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, 2024, Santee Cooper has borrowed approximately $481 million. (*See Cook* Exceptions Regulatory Asset Costs, attached as Exhibit Y.) In addition to the costs identified specific to each Exception, in 2024, Santee Cooper also has costs of $25,905,443.10 directly resulting from the costs of debt incurred as to the *Cook* Exceptions Regulatory Asset that is based on previously reported exceptions. (*See id.*)

CONCLUSION

Santee Cooper is in compliance with the Amended Final Order and Settlement Agreement. In 2024, rates remained frozen. As described in the Exceptions Resolution Agreement, costs and expenses occurring during the 2020 through 2024 Reporting Periods related to identified Exceptions outside the Resolution Amount will not be collected in post Rate Freeze rates. In accordance with the Settlement Agreement and Exceptions Resolution Agreement, Santee Cooper identified and reported on two qualifying Exceptions in the 2024 Report.