

*Cook v. Santee Cooper*

**South Carolina Public Service Authority**

**2020 Annual Compliance Report**

## INTRODUCTION

On March 12, 2020, the Board of the South Carolina Public Service Authority (“Santee Cooper”) approved the Settlement Agreement (the “Settlement Agreement” or the “Agreement”) for *Cook v. Santee Cooper*, Case No. 2019-CP-23-6675. (See Settlement Agreement, attached as Exhibit A.) The Court entered the Amended Final Order and Judgment on July 31, 2020, and on the same day the Santee Cooper Board adopted a Resolution to approve implementation of the Settlement based on the Court’s Amended Final Approval Order. The Settlement Agreement requires Santee Cooper to provide an annual report to the Court and Central by April 30 of each year through 2030, “establishing Santee Cooper’s compliance with the terms and restrictions of §§ IV.A. and IV.B.” (Settlement Agreement, Part IV.C, at 23.) Santee Cooper submits this 2020 Annual Compliance Report (or the “2020 Report” or the “Report”) in accordance with the requirements of the Settlement Agreement.

The parties agreed on an outline of topics for the annual compliance report to address Santee Cooper’s compliance with the terms and restrictions of Sections IV.A, Common Benefit Fund, and IV.B, Non-Cash Settlement (the “Rate Freeze”), which is provided in this 2020 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.) Part I describes the time period covered by and information supporting the Report. Part II provides facts and documents showing compliance with respect to the Common Benefit Fund. Part III provides facts and documents showing compliance with respect to the Rate Freeze. Part IV addresses questions raised by Central regarding a bond transaction in November 2020 and the source of funds used to make the first installment payment to the Common Benefit Fund.

## **I. Report time period and supporting information**

This report covers August 1, 2020 through December 31, 2020 (the “2020 Reporting Period”). Santee Cooper’s fiscal year is January 1 to December 31. On March 22, 2021, Santee Cooper’s Board of Directors received the report of its independent auditor, Cherry Bekaert, on its annual financial statements and the 2020 Annual Report. (*See* Annual Report 2020, attached as Exhibit C (“2020 Annual Report”).) As reflected in the 2020 Annual Report, Cherry Bekaert found “the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities and fiduciary activities of the Authority as of December 31, 2020 and 2019, and the respective changes in financial position and, where applicable, its cash flows for the years then-ended in accordance with accounting principles generally accepted in the United States of America.” (*Id.* at 12.)

Santee Cooper utilizes the Federal Energy Regulatory Commission (“FERC”) Uniform System of Accounts and follows Generally Accepted Accounting Principles. (*See* 2020 Annual Report, Note 1(B), at 39.) Throughout 2020, Santee Cooper monitored accounting records to ensure costs and expenses appropriately attributable to the period before August 1, 2020 were recorded and accrued as of July 31, 2020—before the Rate Freeze Period. Central’s rates and charges for service rendered January 1, 2020 through July 31, 2020 are based on these costs and expenses. For Central, the Rate Freeze became effective for service rendered on or after August 1, 2020. For customers other than Central, the Rate Freeze began with bills rendered on or after August 16, 2020. (*See* Am. Final Approval Order ¶ 19 (Jul. 31, 2020), attached as Exhibit D.)

In addition to its audited annual financial statements, Santee Cooper identified records supporting compliance with Sections IV.A and B of the Settlement Agreement, which are attached as exhibits.

## **II. Common Benefit Fund – Section IV.A**

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

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

1. Payments timely made by September 30, 2020
2. For 2020 report:
  - a. Class allocation data timely provided
  - b. Bill credits timely provided
3. Recording and treatment of \$200 million settlement
  - a. Initial recording and treatment of \$200 million
  - b. Recording and treatment of 3 annual installments

(Outline of Report Topics, at 2.)

### **A. Payment timely made by September 30, 2020 by Santee Cooper**

In compliance with the Settlement Agreement, Santee Cooper timely made the first installment payment of \$65 million on September 25, 2020.

Section IV.A of the Settlement Agreement calls for a Common Benefit Fund that will be

managed by the Settlement Administrator pursuant to the terms of the Escrow Agreement and requires Santee Cooper to pay \$200 million in three annual installments in the third quarter of each year. (Settlement Agreement, Section IV.A, at 20.) The first annual installment of \$65 million was due to the Escrow Agent in the third quarter of 2020. (*Id.*) The Court appointed Huntington National Bank as Escrow Agent for the Qualified Settlement Fund Escrow Account. (*See* Order Establishing Qualified Settlement Fund (Sept. 1, 2020), attached as Exhibit E.) The Settlement Administrator, Epiq, provided wire instructions for the Escrow Agent, (Huntington National Settlement Team, Wire Transfer Instructions, attached as Exhibit F), and Santee Cooper wired \$65 million per those instructions on September 25, 2020. (*See* Wells Fargo Wires Payment Detail (Sept. 25, 2020), attached as Exhibit G.)

**B. Class allocation data and bill credits timely provided**

Santee Cooper also timely provided class allocation data to the Settlement Administrator and the bill credits to the appropriate Class Members.

**1. Class allocation data**

Section V.D. of the Settlement Agreement required, within 30 days of the Effective Date, “Santee Cooper and Central [to] deliver to the Settlement Administrator information sufficient for Class Counsel to allocate the Common Benefit Fund among the Class Members” as described in the Settlement Agreement. (Settlement Agreement, Section V.D, at 28.) The Court approved the methodologies to distribute the Common Benefit Fund as reasonable and fair to all Class Members. (*See* Am. Final Approval Order ¶ 20, at 38.) Thirty days from the Effective Date is October 1, 2020. (*See* Settlement Agreement, Section VII.A. at 33-34 (defining “Effective Date”).)

Santee Cooper applied the methodology selected by Class Counsel and approved by the Court. (*See* Santee Cooper’s Memorandum in Support of Final Approval, Exhibit B – Illustration

of Customer Benefit Fund Allocation Methodology (Jul. 17, 2020), attached as Exhibit H.) Santee Cooper provided the data for the Common Benefit Fund allocation to the Settlement Administrator on October 1, 2020. (*See* Email from Carmen Thomas to Jay Ward and Ricky Borges, Cook – Santee Cooper Data Transmittal (Oct. 1, 2020), attached as Exhibit I.)

## **2. Bill credits**

Section V.D of the Settlement Agreement required Santee Cooper to provide “[e]ach Authorized Recipient who is a current customer of Santee Cooper . . . and whose distribution is less than \$25.00” a bill credit with their percentage share of the Common Benefit Fund Balance within sixty days of receipt of the Class Member Payment Information. (Settlement Agreement, Part V.D.1, at 28.) On November 2, 2020, the Settlement Administrator provided a file to Santee Cooper identifying 17,463 accounts for which Santee Cooper would issue bill credits. (*See* Email from Lisl Miller to Carmen Thomas, Cook- Santee Cooper - Disbursement Data File for Santee Cooper (Nov. 2, 2020), attached as Exhibit J.) The Settlement Administrator issued checks to the remaining accounts.

Based on the information from the Settlement Administrator, Santee Cooper provided a credit to 16,755 active customers on bills sent between December 1, 2020 and December 31, 2020. (*See* Chart of Credits Applied to Active Accounts, attached as Exhibit K.) The Settlement Administrator’s list of active customers who qualified for bill credits was based on account status when the class list was generated. Between that time and the issuance of credits, however, 708 accounts became inactive, such that checks and not bill credits would be necessary. A list of the inactive accounts was sent to the Settlement Administrator on December 1, 2020, so the Settlement Administrator could issue checks. (*See* Email from Carmen Thomas to Lisl Miller, FW: Cook v Santee Cooper - Calculation Methodology (Dec. 1, 2021), excerpt attached as Exhibit L.) The

16,755 who received credits plus the 708 inactive accounts whose information was provided to the Settlement Administrator equal the 17,463 identified in the data sent by the Settlement Administrator to Santee Cooper on November 2, 2020.

The bills of several retail customers are attached to show how the credits appeared to customers when they were applied. (*See Santee Cooper Customer Bills*, attached as Exhibit M.)

**C. 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. Accordingly, as further described below, Santee Cooper’s contribution to the Common Benefit Fund will not be “included in its revenue requirements or otherwise passed on to its customers by way of increased rates or charges, directly or indirectly, in its cost of service formula or otherwise passed on to its customers in any way either through increased rates or charges.” (Settlement Agreement, Section IV.A, at 21.)

**1. Initial recording and treatment of the \$200 million**

As noted above, Part IV.A of the Settlement Agreement requires Santee Cooper to pay \$200 million toward the Common Benefit Fund in three annual installments, “payable in the third quarter of each year, in the amount of \$65 million, \$65 million, and \$70 million.” (Settlement Agreement, Section IV.A, at 20-21.) The Settlement Term Sheet was executed on February 20, 2020, and the Settlement Agreement was preliminarily approved and executed on March 17, 2020, before Santee Cooper issued its 2019 annual financial reports. Pursuant to Generally Accepted Accounting Principles, because the settlement liability was probable and reasonably estimable before the 2019 annual financial report had been issued, the \$200 million liability was recorded in 2019. (*See 2019 Annual Financial Report*, at Notes 16 & 17, at 92, attached as Exhibit N.)

Santee Cooper recorded the \$200 million settlement liability in 2019 by crediting FERC Account 2420, Miscellaneous Current and Accrued Liabilities, as \$135 million long-term and \$65 million short-term as shown on the journal reflecting these entries. (See Santee Cooper Journal Entry for “Record Legal Settlement Liability” (Transaction date Dec. 31, 2019), attached as Exhibit O). The offsetting debit of \$200 million was recorded as a miscellaneous non-operating expense in FERC account 4210 (*id.*), and reflected as a special item on the 2019 Statement of Revenues, Expenses and Changes. (See 2019 Annual Report, at 32.)

As stated in the 2019 and 2020 Annual Reports, “The Authority will not recover the cost of the settlement in rates.” (2020 Annual Report, Note 15, at 97; 2019 Annual Report, Note 16, at 92.) As further described in 2020 Annual Report Note 15 and as evidenced by the journal entries previously referenced and its 2019 financial statements, Santee Cooper elected to recognize the entire \$200 million as a 2019 expense. Santee Cooper did not utilize regulatory accounting to establish a regulatory asset and defer recognition of the expense to a future period when it intended to collect the expense in rates. If the payment were being deferred to a future period it would not be recorded as a 2019 expense. Thus, the treatment of the \$200 million complies with Section IV.A of the Settlement Agreement.

For retail and municipal customers who take service pursuant to rate schedules adopted by Santee Cooper’s Board of Directors, if and when their now-frozen rate schedules are adjusted after 2024, the ratemaking will not be based on 2019 expenses. For Central, which is charged pursuant to the cost-of-service methodology set forth in the Power Systems Integration and Coordination Agreement between Central and Santee Cooper, As Amended (the “Coordination Agreement”), the \$200 million charge recorded to account 4210 was excluded from Central’s cost of service for



purposes of calculating Central's rates for 2019. (*See* Central 2019 Cost of Service Documents, attached as Exhibit P.)

## **2. Recording and treatment of the \$65 million first installment payment**

When the first \$65 million installment to the Common Benefit Fund in payment of that liability was made on September 25, 2020, 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 1<sup>st</sup> Installment, attached as Exhibit Q). This entry was recorded to the balance sheet only, reducing an existing liability, and no costs or expenses were recorded or deferred as a result of recording the payment in this manner. (*Id.*; *see also* 2020 Annual Report, Note 15, at 97 (“The Authority will not recover the cost of the settlement in rates.”).)

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

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

circumstances. (Settlement Agreement Section IV.B, at 22 (emphasis added).) A deferral of costs or expenses under this provision shall be reported in the annual compliance report. (*Id.* at 23.)

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

1. For 2020 report, Board resolution addressing Rate Freeze
2. Posting of frozen rates on web site – Frozen rate schedules and Schedule B
3. Rates frozen for Central and for Santee Cooper’s Residential, Commercial, Lighting, and Industrial customers
4. If any exceptions occur, identification of potential instances of exceptions, including a description of the exception and the associated amount for that year
5. Through 2024, a comparison of annual revenues and costs (revenue requirements)

(Outline of Report Topics, at 2.)

**A. Board resolution and web site posting of Rate Freeze**

The Santee Cooper Board of Directors adopted a resolution on July 31, 2020, approving and directing implementation of the Rate Freeze. (*See* S.C. Public Service Auth., Resolution Authorizing Implementation of Settlement Including Rate Freeze for *Cook & Other V.C. Summer Litigation or Claims* (Jul. 31, 2020), attached as Exhibit R.)

On July 27, 2020, the Settlement Agreement was posted on the Santee Cooper website, including Schedules A and B. (*See* Screenshots showing posted frozen rates and charges, <https://www.santecooper.com/About/Increasing-Value/Rates/Index.aspx>, attached as Exhibit S.)

**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.) Schedule A of the Settlement Agreement identified the components of Central’s rates that would be frozen as well as the amounts of those frozen rates. Schedule B identified the affected rate schedules and established the frozen rates for the adjustable clauses.

**1. Retail Rate Freeze**

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

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. 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. (*See* Customer Care & Billing

and Industrial Billing screenshots, attached as Exhibit T.) The remaining, non-adjustable rates from the frozen rate schedules were not altered.

Examples of bills for affected customers are attached as follows:

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

## **2. Central Rate Freeze**

The Rate Freeze was applied to Central's service for usage on and after August 1, 2020. Accordingly, the first invoice issued to Central for service on or after August 1, 2020, was their 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.

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 Central Billing Screenshots, attached as Exhibit X.) Central's invoices from August 2020 to December 2020 showing rates consistent with Schedule A are attached. (See Exhibit Y.) In addition, after December 31, 2020, calculations of Central loads to incorporate actual line losses incurred during the Reporting Period were completed. The changes to Central's loads from these calculations resulted in a billing adjustment for their service during the Reporting Period. Central received this adjustment on its March 2021 invoice.

### **C. Potential exceptions identified for the period August 1, 2020 through December 31, 2020**

While establishing the Rate Freeze, the Settlement Agreement also provides that "Santee

Cooper may defer” certain just and reasonable costs and expenses incurred during the Rate Freeze Period to be collected after the Rate Freeze if those costs and expenses directly resulted from any of these circumstances:

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

(Settlement Agreement, Part IV.B, at 22-23.) These items are referred to as “Exceptions,” and the first, second, and fifth bulleted items are relevant in 2020 and are addressed below.

The three potential Exceptions Santee Cooper may elect to defer and the maximum amount of each are identified in the table below:

<b>Potential Exception</b>	<b>Estimated Maximum Deferred Charge (Aug 1, 2020-Dec 31, 2020)</b>
1. Change in Law – COVID 19	\$ 5.2 Million
2. Named Storm – Hurricane Isaias	\$ 1.2 Million
3. Central Load Deviation – More than 4% below Reform Plan	\$ 13.3 Million

The Rate Freeze Period does not end until December 31, 2024, however, and to date, no deferral of costs or expenses has occurred. Furthermore, Santee Cooper has not decided whether it will

defer these amounts for collection after the Rate Freeze Period. But because these costs and expenses meet the criteria for Exceptions, they are identified in this Report as required by the Settlement Agreement. (*Id.* at 23.) Further, future events may affect the amounts listed above, including whether federal reimbursements are received for eligible disaster-related costs (like the Change in Law – COVID-19 exception). In the future, Santee Cooper will update the Court regarding these Exceptions.

As noted above, 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**

The coronavirus pandemic prompted a response from federal, state, and local levels of government. Legislation, executive orders, and emergency orders were enacted. Santee Cooper incurred costs and expenses because of these changes in law. Santee Cooper has a mechanism within its accounting system that was set up to track costs related to the coronavirus. The total amount incurred during the Reporting Period due to these changes in law was \$5.2 million, which is the maximum amount that may be deferred for this Exception in the Reporting Period. The categories of costs, amounts, and sources of law that led to the costs are described in the chart attached as Exhibit Z, 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 AA.)

While Santee Cooper is identifying the potential Exception and maximum amount, a portion of this amount is subject to reimbursement from the Federal Emergency Management

Agency (“FEMA”). On March 13, 2020,<sup>1</sup> a federal Major Disaster Declaration was issued for South Carolina. (See Federal Emergency Management Agency, <https://www.fema.gov/news-release/20200723/president-donald-j-trump-approves-major-disaster-declaration-south-carolina>, attached as Exhibit CC.) Based on the declaration, “[federal funding is available to [Santee Cooper] on a cost-sharing basis for emergency protective measures (Category B), including direct federal assistance under Public Assistance, for all areas affected by COVID-19 a federal cost share of 75 percent.” (*Id.*) The amount reimbursed by FEMA for costs incurred during the Reporting Period will be deducted from the \$5.2 million, reducing the amount that may be deferred for collection.

As shown in its 2020 Annual Report, pursuant to Generally Accepted Accounting Principles, Santee Cooper estimated the total amount FEMA may reimburse for all 2020 COVID-19-related costs is \$4.3 million (*see* 2020 Annual Report, at 20), of which \$1.6 million is estimated to be attributable to the Rate Freeze Period. The FEMA reimbursement process is ongoing, and the result is not expected to be finalized or received for several years. (See FEMA, Coronavirus (COVID-19) Pandemic: Work Eligible for Public Assistance (Interim), FEMA Policy FP 104-009-19, at 6 (Sept. 1, 2020) (noting deadline has been extended and FEMA will “make notification 30 days prior to establishment of the deadline), attached as Exhibit DD.)

## **2. Named storm event – Hurricane Isaias**

Hurricane Isaias was defined as Category 1 Hurricane causing extensive damage across the Caribbean and the East Coast of the United States and moving through South Carolina on August 3, 2020. (See S.C. Emergency Management Division, <https://scemd.org/news/isaias-forecast-to->

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<sup>1</sup> While the March 13, 2020 declaration predates the execution of the Settlement Agreement, it follows the execution of the settlement term sheet upon the conclusion of the mediation on February 20, 2020. The term sheet identified changes in law as one of the exceptions to the deferral of costs to future rates. (See Settlement Term Sheet, attached as Exhibit BB.)

regain-hurricane-strength/ (Aug. 3, 2020), and <https://scemd.org/news/minor-cleanup-continues-following-hurricane-isaias/> (Aug. 4, 2020), attached as Exhibit EE.) The National Weather Service named Tropical Storm Isaias on July 29, 2020. (See Nat'l Oceanic & Atmospheric Admin., Nat'l Hurricane Center, Bulletin: Tropical Storm Isaias Advisory Number 7 (Jul. 29, 2020) (noting the disturbance has become Tropical Storm Isaias), attached as Exhibit FF.)

For Santee Cooper, the event resulted in 50 power outages affecting 7,897 retail customers at the peak of the event, including an industrial customer which incurred a brief outage. Internal personnel and contractors worked continuously before, during, and after the event to minimize the customers affected and quickly restore power to those who were. Santee Cooper utilized a mechanism within its accounting system to track costs and expenses related to Isaias, including costs incurred securing infrastructure to minimize adverse impacts and restoration. Santee Cooper's total cost was \$1.23 million, all incurred during the Reporting Period. The categories of costs and amounts are identified on Exhibit GG, along with a report from the Hurricane Isaias cost tracking system. (See Named Storm Isaias Supporting Documents, attached as Exhibit HH.) South Carolina was not declared a Federal Disaster for this event; therefore, no FEMA reimbursement is available.

### **3. Deviation in Central's loads**

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



In accordance with the Coordination Agreement, Central’s demand costs are recovered through the Supplemental Capacity Cost Rate, the Supplemental Energy-Related Fixed Cost Rate, and the Transmission Service Rate. (See Coordination Agreement, at 76-79 & App. E at 93, excerpts attached as Exhibit II.) The following table details Central’s total billing determinants by rate category from August through December 2020 as compared to the Reform Plan projections:

	<b>Reform Plan Billing Determinants</b>	<b>Actual Billing Determinants</b>	<b>Difference: MW or MWh / %</b>
Supplemental Capacity (MW)	12,524	11,363	(1,161), -9.3%
Transmission (MW)	12,524	11,363	(1,161), -9.3%
Supplemental Energy (MWh)	6,083,181	6,008,020	(75,161), -1.2%

(See Santee Cooper Reform Plan, Exs. V & VI – Electric Operating Revenues; Central 2020 Cost of Service, Ex. I – Projected Central Rates and Charges, excerpts of both attached as Exhibit JJ.) As shown on the chart, the Supplemental Capacity and Transmission billing determinant variances exceed the 4% threshold of the Exception.

The value of the load variance is calculated by multiplying the Supplemental Capacity Cost Rate (\$8.76 per kW-month) and the Transmission Service Rate (\$2.74 per kW-month) from Appendix A of the Settlement Agreement by the load variance, which results in an estimated maximum deferral of \$13.3 million. The chart below shows this calculation:

	<b>Difference: MW / %</b>		<b>Rate from Schedule B of Settlement Agreement</b>		<b>Value of Load Variance</b>
Supplemental Capacity (MW)	(1,161)	x	\$8.76 / kW-month	=	\$10,168
Transmission (MW)	(1,161)	x	\$2.74 / kW-month	=	\$3,180
			<b>TOTAL</b>		<b>\$13,348</b>

#### **D. Comparison of August 1 to December 31, 2020 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 2020 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 2020 Reporting Period Actual Costs v. Revenues*, attached as Exhibit KK.)

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

The costs and expenses were compared to actual revenues, including revenues charged in accordance with the Rate Freeze. The Actual Costs v. Revenues Summary shows Santee Cooper’s Revenues exceeded its costs and expenses by \$69.0 million for the 2020 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 II.C above Santee Cooper identified Exceptions that it may elect to defer and collect in rates after the Rate Freeze. For purposes of this analysis Santee Cooper did not exclude the cost of any potential Exceptions from the costs and expenses. If Santee Cooper

elects to defer any Exception to future rates, the costs and expenses for the Rate Freeze Period will be recalculated with those deferred costs excluded.

#### **IV. Addressing Central’s questions regarding the 2020AB transaction and Santee Cooper’s Payment of the First Installment to the Common Benefit Fund**

In October 2020, Santee Cooper sold bonds including both refunding and “new money” bonds, consisting of Series 2020A and Series 2020B, sometimes referred to collectively as “2020AB.” In November 2020, counsel for Central and Class Counsel raised questions about whether the bond sales complied with the Settlement Agreement. (*See* Letter from John Alphin to Rush Smith (Nov. 17, 2020), attached as Exhibit LL.) Since then, Central’s lawyers raised three questions about compliance with the Settlement Agreement, and Santee Cooper’s General Counsel responded. (*See* Letters between John Tiencken and Pamela Williams, attached as Exhibit MM.) This section of the Report provides the factual background and addresses each issue raised by Central.

##### **A. Factual background**

Taking advantage of historically low interest rates and favorable market conditions, Santee Cooper’s board of directors authorized the issuance and sale of bonds on October 28, 2020. The bond sales included the 2020 Tax-Exempt Refunding and Improvement Series A (the 2020A bonds) with a principal amount of approximately \$338.5 million, and the 2020 Taxable Refunding Series B (the 2020B bonds) with a principal amount of approximately \$299.7 million. Together the bonds are sometimes referred to as the 2020AB bonds.

Most of the proceeds of the bond sales were used for refinancing of existing debt. Santee Cooper reduced the average interest rate (coupon) by approximately 1.2%. Santee Cooper also shortened the term of its refinanced debt, reducing the average life of the debt from 21.4 years to 12.9 years, a decrease of 39.7%. By selling the bonds at a premium, Santee Cooper lowered the

principal balance on refinanced debt.

From the proceeds of the 2020A bonds, Santee Cooper will use approximately \$100 million to fund capital projects that qualify for tax-exempt financing. Because the bonds were sold at a premium, Santee Cooper received \$100 million in proceeds upon a principal amount of \$84 million.

A copy of the Official Statement for these Revenue Obligations is attached as Exhibit NN. Copies of reports submitted by Santee Cooper to the Office of Regulatory Staff pursuant to 2020 Act 135 are available on Santee Cooper's website. (*See References to Discussions of 2020AB Transaction in Reports by Santee Cooper to the Office of Regulatory Staff, attached as Exhibit OO.*)

Central raised the following three questions, and Santee Cooper addresses each question.

- 1. With respect to the refunding portion of the debt, did Santee Cooper violate the Settlement Agreement by shifting principal and interest payments from the Rate Freeze Period to the post-Rate Freeze Period?*

Santee Cooper's 2020AB bond sales comply with the Settlement Agreement and do not shift payments from the Rate Freeze Period to the post-Rate Freeze Period. First, the Agreement does not prevent Santee Cooper from refinancing its debt, borrowing, or taking other steps to achieve savings and other benefits for its customers—and neither Central nor anyone else contests that point. Central's lawyers have expressly conceded that nothing in the Cook Settlement Agreement prevents Santee Cooper from refinancing its debt to achieve savings, including savings during the Rate Freeze Period.

Second, the refunding bonds achieved substantial savings for Santee Cooper, which in turn benefits customers now and in the future. Through the refunding portion of these bond sales, Santee Cooper reduced the principal and interest portions of debt service both during *and after* the

Rate Freeze and reduced the average life of the debt. Prior to the 2020AB bond sales, Santee Cooper's system debt service for the period 2025 through 2056 (post-Rate Freeze Period) was \$10.881 billion or \$340.0 million per year. The refunding component of the 2020AB transaction lowered the debt service over that period to \$10.589 billion or \$330.9 million per year. Furthermore, while principal and interest payments during the Rate Freeze Period declined by approximately \$38 million as a result of the refunding, they declined by an even greater, \$292 million, in the period after the Rate Freeze. Santee Cooper, thus, did not shift principal and interest payments outside of the Rate Freeze Period to defer costs to the post-Rate Freeze Period in violation of the Cook Settlement Agreement.

Santee Cooper recognizes, is honoring, and will continue to honor its obligations under the Settlement Agreement. In no way, however, does the Settlement require Santee Cooper cede to the other parties in this case the powers granted Santee Cooper by the General Assembly, including the power to issue bonds and manage its business to realize savings for the Authority and its customers.

2. *With respect to the "new money" portion of the debt, did Santee Cooper violate the Settlement Agreement by using the loan proceeds to pay for a debt that came due within the Rate Freeze Period?*

Santee Cooper did not use \$100 million in tax-exempt bond "new money" proceeds to pay off \$100 million in debt that will come due in the Rate Freeze Period. As reflected in the bond offering documents, in correspondence from Santee Cooper to public officials, and in reports by Santee Cooper to the Office of Regulatory Staff, the "new money" proceeds are being used to finance capital expenditures consistent with Santee Cooper's ongoing capital improvement program. (*See, e.g.*, Letter from Mark B. Bonsall, President and Chief Executive Officer, Santee Cooper, to Santee Cooper Oversight Committee Members and Nanette Edwards, Executive

Director, South Carolina Office of Regulatory Staff (Oct. 30, 2020), attached as Exhibit PP; Supplemental Report to ORS (Dec. 18, 2020) (providing information related to ORS’s review of the 2020AB transaction), available at [https://www.santeecooper.com/About/Increasing-Value/ORS-Reports/\\_pdfs/20201215-CRI-Supplement-Combined-PDF.pdf](https://www.santeecooper.com/About/Increasing-Value/ORS-Reports/_pdfs/20201215-CRI-Supplement-Combined-PDF.pdf).)

In accordance with the bond covenants, the bond proceeds must be used for a qualifying tax-exempt purpose. To date, capital improvements for the following qualifying projects have been funded with proceeds of these bond sales: Distribution System, VC Summer 1, Winyah Generating Station, Cross Generating Station, Rainey Generating Station, and the Solid Waste Landfill. Santee Cooper will use the remaining proceeds towards tax-exempt qualified projects in 2021.

3. *Did Santee Cooper violate the Settlement Agreement by using monies in the Capital Improvement Fund (CIF) to pay the first installment of the Common Benefit Fund?*

In the *Cook* action, Plaintiffs and Central alleged that Santee Cooper had collected from customers and thus possessed sums it was not entitled to collect. Plaintiffs and Central alleged that Santee Cooper should refund those monies to customers. During discovery, Plaintiffs and Central inquired about various cash funds held by Santee Cooper, including the CIF. Santee Cooper agreed in the settlement of the case to pay cash toward the Common Benefit Fund. All parties knew that the CIF was one of the funds from which payment might be made, and nothing in the Settlement Agreement required Santee Cooper to fund the Settlement without using funds from the CIF. There is simply no provision of the Settlement Agreement that was violated by using CIF funds to satisfy the cash component of the Settlement.

At the time of the Settlement, Central recognized that the payments made by Santee Cooper were in the nature of a refund. (*See* Central Memo. Supp. Motion for Final Approval, pp. 2, 3, 4, and 6 (referring to cash payments to class members as “refunds”), excerpts attached as Exhibit

QQ.)

As stated above, Santee Cooper recorded the entire \$200 million expense in 2019. Consequently, no future expenses will be recovered as a result of the \$200 million settlement amount. It has already been written off in a former year; therefore, it cannot cause a future price increase.

### **CONCLUSION**

Santee Cooper is in compliance with the Amended Final Order and Settlement Agreement. Contributions to the Common Benefit Fund were paid when due and distributed to Class Members, and rates have been frozen. Santee Cooper has not deferred costs and expenses occurring during the 2020 Reporting Period to a future period to be collected in post Rate Freeze rates. In accordance with the Settlement Agreement, three items that met the criteria for Exceptions were identified and reported on in the 2020 Report. Santee Cooper may elect to include the costs and expenses related to these Exceptions in rates after the Rate Freeze.