



**Monthly Review of South Carolina Public Service
Authority Pursuant to Act 135 Section 11 (E)**

South Carolina
Office of Regulatory Staff

April 1, 2021

Executive Summary

On May 18, 2020, Act 135 was signed into law by Governor Henry McMaster. Section 11 of Act 135 requires that the South Carolina Public Service Authority (“Santee Cooper”) be subject to monthly reviews by the South Carolina Office of Regulatory Staff (“ORS”). The objective of the monthly review is to determine if Santee Cooper violated the terms contained in Section 11 subsection E of Act 135. This Report details the results of ORS’s monthly review of Santee Cooper activities under Section 11 subsection E of Act 135 for the time period of January 1, 2021, through January 31, 2021 (“Review Period”).

Act 135 allows the Santee Cooper Oversight Committee (“SCOC”) to convene to consider and clarify any matter discovered by ORS pursuant to Section 11 subsection E that ORS determines is in violation of the terms contained in subsection E.

ORS has not audited or verified the appropriateness, accuracy or completeness of the actions undertaken by Santee Cooper. Further, this Report, and all associated analyses, are based upon the information and attestations made by Santee Cooper and in reliance that the responses provided by Santee Cooper are full and accurate responses. ORS conducted the review contained in this Report in reasonable reliance upon the information provided by Santee Cooper. Moreover, ORS did not retain outside legal or financial experts to assist with the review contained in this Report. Through this Report, ORS makes no comment regarding actions taken by Santee Cooper related to the *Cook Settlement*, Act 135 Section 11(A).

ORS determined Santee Cooper did not take action that violated the terms contained in Act 135 Section 11 subsection E during the Review Period. However, it is important to note that, on February 22, 2021, Santee Cooper notified ORS that it intended to request that its Board approve an interest rate swap management policy, and the Board approved the policy on February 24, 2021.¹ Santee Cooper states that the swap policy is intended to provide guidelines and guardrails for management of such swaps and that it will allow Santee Cooper to begin to negotiate International Swaps and Derivative Association (“ISDA”) master agreements with potential counterparties. Santee Cooper further advised that the swap policy would require Board approval of individual transactions. Santee Cooper has expressed its belief that Act 135 does not permit it to enter into interest rate swaps² but states that these actions are preparatory in nature and that no financial

¹ February 22, 2021, E-mail Subject: Communications to Oversight Committee from Pamela Williams to Nanette Edwards, Dawn Hipp, and Andrew Bateman.

² Santee Cooper also reported that Bond Counsel has advised such swaps are not consistent with the provisions of Act 135. https://www.santeecooper.com/About/Increasing-Value/ORS-Reports/_pdfs/20210216_CRI_Supplement_Combined_PDF.pdf

commitments will be made. In light of these actions and the permissible activity under Act 135, ORS recommends that the SCOC review and provide further instruction to ORS and Santee Cooper regarding whether planning efforts related to interest rate swaps, the adoption of an interest rate swap management policy, and the negotiation of ISDA master agreements are permissible under Act 135.

Scope of ORS Review

In accordance with Act 135 Section 11, the scope of the monthly review by ORS is to determine if Santee Cooper activities during the Review Period were in violation of subsection E which specifies:

(E) Nothing in this section prohibits Santee Cooper from:

(1) doing those things necessary for closing and decommissioning the Winyah Generating Station including, but not limited to, planning, permitting, and securing by purchase or lease one hundred megawatts of combustion turbines and minor transmission upgrades, subject to the consent of Central pursuant to the Power System Coordination and Integration Agreement between Santee Cooper and Central, as amended (the Coordination Agreement). In no event will this include constructing a natural gas combined cycle or other major generation resource;

(2) doing all those things necessary for deploying up to 500 megawatts of new solar generation, within the structure described in the Santee Cooper Act 95 Reform Plan Appendix 8.2.4, subject to consent of Central pursuant to the Coordination Agreement;

(3) entering into operational efficiency and joint dispatch agreements with neighboring utilities for a period of up to one year, with annual renewals and reciprocal cancellation clauses thereafter;

(4) renegotiating existing and entering into new coal supply, transportation, and related agreements that produce savings and for terms not to exceed five years or such longer period of time as may be approved by the Santee Cooper Oversight Committee;

(5) entering into natural gas hedging arrangements for terms not to exceed five years, or such longer period of time as may be approved by the Santee Cooper Oversight Committee;

(6) conducting the planning, permitting, engineering and feasibility studies to develop natural gas transportation and power transmission to ensure a reliable power supply;

(7) entering into purchase power arrangements needed for, but not in excess of, anticipated load for a term not to exceed the rate freeze period of the Cook Settlement, and supportive thereof;

(8) defeasing debt, issuing or refunding debt under existing bond resolutions and agreements, and entering into financing arrangements consistent with existing bank facilities, all as necessary to manage day to

day operations and financing needs, including converting variable rate debt to fixed rate debt. Refunding of existing debt is permitted if it achieves present value savings or mitigates risk and does not extend the average life of the debt;

(9) resolving outstanding lawsuits and claims;

(10) taking whatever steps are prudent and consistent with good utility practice to address the impact of the COVID-19 pandemic; and

(11) freezing rates as provided in the settlement of Cook v. Santee Cooper, et al.

ORS Review Methodology

Within 30 days of the passage of Act 135, ORS was required to provide Santee Cooper with a reasonable process by which ORS will accomplish its obligations. ORS provided the process, estimated schedule and sample documents to Santee Cooper on June 10, 2020.

ORS determined a timely exchange of information and records between Santee Cooper and ORS would be critical to meet the monthly review requirement of Act 135. The process determined by ORS and provided to Santee Cooper included the following:

- ORS will send Santee Cooper a Request for Information (“RFI”) on a monthly basis.
- Santee Cooper will provide a response within fourteen (14) days of receipt of the RFI.
- Each response by Santee Cooper requires a signature and attestation from a Santee Cooper officer.
- ORS may request additional information and documents.
- ORS may interview, or discuss the Santee Cooper responses with, the individual that prepared the response.
- ORS will provide the findings of the monthly review to Santee Cooper and the SCOC.

ORS issued the Ninth RFI to Santee Cooper on February 16, 2021, and received responses from Santee Cooper on March 1, 2021.

ORS Review of Section 11 subsection E

Winyah Generating Station Closing & Decommissioning

(E) Nothing in this section prohibits Santee Cooper from:

(1) doing those things necessary for closing and decommissioning the Winyah Generating Station including, but not limited

to, planning, permitting, and securing by purchase or lease one hundred megawatts of combustion turbines and minor transmission upgrades, subject to the consent of Central pursuant to the Power System Coordination and Integration Agreement between Santee Cooper and Central, as amended (the Coordination Agreement). In no event will this include constructing a natural gas combined cycle or other major generation resource;

Summary of Santee Cooper Activities during Review Period

ORS's review of the information provided indicates that, during the Review Period, Santee Cooper undertook several activities regarding the retirement of Winyah Generating Station ("Winyah"), including activities related to the planned addition of twenty (20) megawatts ("MW") of diesel generators from the abandoned V.C. Summer Units 2 & 3 project.

During the December Review Period, Santee Cooper Board of Directors ("Board") approved the construction of twenty (20) MW of diesel generators in the Horry-Georgetown Area ("Horry County Site") and executed a Purchase and Sale Agreement for the approved site. On January 26, 2021, Santee Cooper executed closing documents on a 62+/- acre site for the project. During the Review Period, Santee Cooper engaged in several activities relating to the permitting and construction of the diesel generators on the site including inspection of the diesel generators, a site survey, clearing the site, and Generator Step Up Transformer requisition approval and issuance for bid. Santee Cooper also engaged in various environmental permitting activities for the site including air permitting and wetlands assessments. Santee Cooper also reported that it continues to work on the Winyah Station Staffing Plan to address the need for fewer employees at Winyah due to unit retirements.

On January 25, 2021, the Board approved an experimental rate schedule to serve Century Aluminum Company, Inc. ("Century") pursuant to a proposed agreement to provide electric service to Century's Mt. Holly facility through December 31, 2023. As part of this agreement, Santee Cooper would continue to operate Unit 3 through 2023, as opposed to idling the Unit at the end of 2021 as previously planned. Additionally, in the Board Meeting on March 22, 2021, pursuant to the United States Environmental Protection Agency's 2020 revised ruling on the Steam Effluent Limitation Guidelines ("ELG"), the Board approved a resolution to officially and irrevocably retire the Winyah units. The resolution extended the retirement date for Winyah Units 1 & 2 from the previously proposed date of December 2027 to no later than December 31, 2028, in compliance with the ELG regulatory deadline.³

³ Santee Cooper March Board of Directors meeting, <https://vimeo.com/527256740> at 1:26:44

ORS Review Results

ORS determined Santee Cooper did not take action that violated the terms contained in Section 11 subsection E (1) of Act 135 during the Review Period.

As referenced in ORS's December 31, 2020, Report, it is unclear if the activities undertaken by Santee Cooper in prior review periods related to planning and permitting for a natural gas combined cycle or other major generation resource are authorized by Act 135. Although Santee Cooper reports that it has suspended work on the natural gas combined cycle unit, ORS recommends the SCOC review and provide further instruction to ORS and Santee Cooper if planning efforts that include natural gas combined cycle or other major generation resources are allowable under Act 135.

Deployment of up to 500 MW of New Solar Generation

- (E) *Nothing in this section prohibits Santee Cooper from:*
- (2) *doing all those things necessary for deploying up to 500 megawatts of new solar generation, within the structure described in the Santee Cooper Act 95 Reform Plan Appendix 8.2.4, subject to consent of Central pursuant to the Coordination Agreement*

Summary of Santee Cooper Activities during Review Period

ORS's review of the information provided by Santee Cooper indicates work was conducted to support the addition of new solar generation during the Review Period. Santee Cooper and Central held multiple conference and individual calls to discuss purchased power agreement ("PPA") terms and discuss negotiation strategies.

On January 21 and 22, 2021, Santee Cooper jointly entered into PPAs for three (3) projects. At the Board meeting on March 22, 2021, Santee Cooper reported that it has executed PPAs with an aggregate capacity of 425 MW – of which Santee Cooper's share is 117 MW – and that various options are being pursued for the 75 MW of additional capacity. Santee Cooper also indicated that, following the execution of PPAs for the initial 500 MW, an additional 1,000 MW of solar resources and 200 MW of storage will be secured over long-term.⁴

ORS Review Results

ORS determined Santee Cooper did not take action that violated the terms contained in Section 11 subsection E (2) of Act 135 during the Review Period.

Operational Efficiency & Joint Dispatch Agreements

- (E) *Nothing in this section prohibits Santee Cooper from:*

⁴ Santee Cooper January Board of Directors meeting, <https://vimeo.com/527256740> at 3:41:44.

(3) entering into operational efficiency and joint dispatch agreements with neighboring utilities for a period of up to one year, with annual renewals and reciprocal cancellation clauses thereafter

Summary of Santee Cooper Activities during Review Period

ORS's review of the information provided by Santee Cooper indicates Santee Cooper conducted no activities regarding joint dispatch during the Review Period. Although not part of a joint dispatch scenario, Santee Cooper enhanced existing hourly and daily energy bid and offer process to identify opportunities to enter into bilateral transactions (buy and sell energy) with Dominion Energy South Carolina, Inc. ("Dominion"). During the Review Period, Santee Cooper and Dominion continued to review bids and offers; however, no bilateral transactions were executed.

Santee Cooper stated that, during the Review Period, no activities were taken regarding joint Right of Way operations with Dominion. Santee Cooper reported on plans to meet with Dominion personnel on March 1, 2021, to compare existing Vegetation Management Applications that are used for managing right-of-way vegetation maintenance. Santee Cooper and Dominion plan to begin the joint herbicide application over the period of May 1 to September 30, 2021.

Santee Cooper continued to evaluate opportunities to obtain gypsum from Dominion at lower costs to fulfill contract requirements. Currently, Santee Cooper purchases gypsum externally to meet contract requirements when Santee Cooper facilities do not produce sufficient volumes. During the November Review Period, Santee Cooper requested approval from the SC Department of Health and Environmental Control ("SCDHEC") for a permit to allow a test of Dominion gypsum from Williams Station. The material will be processed through Santee Cooper's wash plant, and the final product will be evaluated for compliance with contract specifications. Santee Cooper is awaiting approval from SCDHEC and no action was taken to purchase gypsum from Dominion during the Review Period.

During the Review Period, Santee Cooper continued discussions with Southern Power Company and Southern Company Services, Inc. (collectively "Southern") to determine what areas would have the best opportunities for increased efficiencies. Different technical groups within Santee Cooper and Southern continued to work together to develop mutually beneficial opportunities. In particular:

- The Procurement team continued discussions with Southern focused on transmission and distribution commodities. A review of purchase volumes and bid schedules are underway to identify items for which requests for proposals could be conducted jointly.
- The Generation Technical Services and Asset Management teams, along with the involvement of Technology Services staff, continued to discuss vendor offerings for data analytic software and tools.

ORS Review Results

ORS determined Santee Cooper did not take action that violated the terms contained in Section 11 subsection E (3) of Act 135 during the Review Period.

Coal Supply, Transportation, & Related Agreements

- (E) *Nothing in this section prohibits Santee Cooper from:*
- (4) *renegotiating existing and entering into new coal supply, transportation, and related agreements that produce savings and for terms not to exceed five years or such longer period of time as may be approved by the Santee Cooper Oversight Committee*

Summary of Santee Cooper Activities during Review Period

ORS's review of the information provided by Santee Cooper indicates that Santee Cooper is in on-going discussions with one of its industrial customers, which could result in additional demand to its electric system. Santee Cooper stated that, in order to secure the pricing associated with serving the customer's incremental demand, it entered into negotiations with an existing coal supplier for increased coal volumes in 2021-2023.

Santee Cooper reported that it renegotiated the Rail Switching Agreement with Appalachian Railcar Services, LLC for 2021 after the previous agreement expired at the end of 2020. Santee Cooper stated that, unlike the previous agreement which had a flat rate regardless of the number of shipments received each month, the renegotiated agreement is based on a tiered rate and could result in savings if shipments drop below the projected volumes.

ORS Review Results

ORS determined Santee Cooper did not take action that violated the terms contained in Section 11 subsection E (4) of Act 135 during the Review Period.

Natural Gas Hedging Arrangements

- (E) *Nothing in this section prohibits Santee Cooper from:*
- (5) *entering into natural gas hedging arrangements for terms not to exceed five years, or such longer period of time as may be approved by the Santee Cooper Oversight Committee;*

Summary of Santee Cooper Activities during Review Period

ORS's review of the information provided by Santee Cooper indicates that Santee Cooper continued implementing its repositioning strategy on natural gas hedge positions. Santee Cooper's 2020 October Fuel Dispatch (2021 Budget) projected less natural gas consumption in comparison to the Reform Plan (2020 Budget) projections. Santee

Cooper stated that the repositioning strategy will sell enough contracts to lower its hedge volumes below 100% for those months that it has excess and will purchase contracts for months that were already below 100% with a desired outcome of reaching 100% coverage in each month through 2024. During the Review Period, Santee Cooper executed a purchase for March 2024 that results in a projected savings of \$33,586 compared to the Reform Plan projections.

By letter dated February 1, 2021, Santee Cooper requested that the SCOC authorize Santee Cooper to transact natural gas hedges beyond the limits of Act 135 and to secure a portion of its projected natural gas requirements via a fixed price futures/swap. Santee Cooper specified that such a long-term hedging strategy could mitigate risk and prevent exposure to natural gas price volatility. In making this request, Santee Cooper did not specify a time frame in which it would seek to make such fixed price futures/swaps, but generally identified natural gas prices and potential futures/swap contracts through 2031.

ORS Review Results

ORS determined Santee Cooper did not take action that violated the terms contained in Section 11 subsection E (5) of Act 135 during the Review Period.

Develop Natural Gas Transportation & Power Transmission

- (E) *Nothing in this section prohibits Santee Cooper from:*
- (6) *conducting the planning, permitting, engineering and feasibility studies to develop natural gas transportation and power transmission to ensure a reliable power supply*

Summary of Santee Cooper Activities during Review Period

ORS's review of the information provided by Santee Cooper indicates that routine planning activities associated with transmission model development were conducted in preparation for the annual transmission system planning assessment. No other actions were taken during the Review Period.

ORS Review Results

ORS determined Santee Cooper did not take action that violated the terms contained in Section 11 subsection E (6) of Act 135 during the Review Period.

Purchased Power Arrangements

- (E) *Nothing in this section prohibits Santee Cooper from:*
- (7) *entering into purchase power arrangements needed for, but not in excess of, anticipated load for a term not to exceed the rate freeze period of the Cook Settlement, and supportive thereof*

Summary of Santee Cooper Activities during Review Period

ORS's review of the information provided by Santee Cooper indicates Santee Cooper continued to monitor pricing of purchase power supply during the rate freeze period for up to 150 MW blocks. No action was taken towards entering into agreements and this activity is on-going.

ORS Review Results

ORS determined Santee Cooper did not take action that violated the terms contained in Section 11 subsection E (7) of Act 135 during the Review Period.

Debt & Financing Arrangements

- (E) *Nothing in this section prohibits Santee Cooper from:*
- (8) *defeasing debt, issuing or refunding debt under existing bond resolutions and agreements, and entering into financing arrangements consistent with existing bank facilities, all as necessary to manage day to day operations and financing needs, including converting variable rate debt to fixed rate debt. Refunding of existing debt is permitted if it achieves present value savings or mitigates risk and does not extend the average life of the debt*

Summary of Santee Cooper Activities during Review Period

ORS's review of the information provided by Santee Cooper indicates Santee Cooper managed bank facility agreements for two types of short-term products (Commercial Paper and Revolving Credit Agreements) during the Review Period. Santee Cooper indicated the management of the bank facility agreements facilitates day-to-day financing needs. Santee Cooper reported there were no changes to the total balances for the bank facility program during the Review Period. Santee Cooper began discussions with various banks in advance of the expiration of the 2019A Letter of Credit on April 14, 2021, to extend, replace, or renew the Letter of Credit. As of the end of the Review Period, Santee Cooper had not received final pricing from the banks and Santee Cooper had made no decision regarding whether to extend, replace, or renew the 2019A Letter of Credit. Santee Cooper also stated that three of its four bank facilities totaling \$550 million will expire in 2021. It requested an indication of fees from one bank regarding a facility with capacity of \$200 million and expiring June 2021 but did not receive any information in this regard during the Review Period. The two other facilities expire in September 2021 and Santee Cooper stated it has not taken any steps to renew or replace these facilities.

Santee Cooper indicated that it took no actions to refund existing debt during the Review Period. During the Review Period, Santee Cooper discussed and reviewed the financial projections and debt management plan with PJM, its financial advisor. The discussions included a review of capital spending and financing needs, refunding candidates and debt products, and the potential for interest rate swaps. An overview of the Santee Cooper

debt management plan was provided to the Board during the January meeting. As part of this debt management plan, Santee Cooper reported the need to issue approximately \$100 million in new money proceeds in the 4th quarter 2021.

On January 12, 2021, Santee Cooper reimbursed the Capital Improvement Fund (“CIF”) from the 2020A proceeds for approximately \$15.8 million of tax-exempt expenditures made between September 6 and December 31, 2020. Santee Cooper indicated it plans to complete a tax analysis and use the remaining 2020A proceeds towards tax-exempt qualified projects in 2021.

Santee Cooper Supplemental Responses to ORS

On February 18, 2021, Santee Cooper met with South Carolina Treasurer Curtis Loftis to provide an update on Santee Cooper which included discussions about debt and the 2020A debt transactions.

On March 4, 2021, Santee Cooper responded to ORS questions related to the planning activities undertaken related to interest rate swaps. Santee Cooper indicated it has been evaluating the value of interest rate swaps for 20 years and developed a draft interest rate swap policy in 2016, which was not reviewed by the Board. Santee Cooper began discussions with the Board in August 2020 which progressed to the development of and subsequent approval of the Interest Rate Swap Management Policy that was approved by the Board on February 24, 2021. In this regard, Santee Cooper determined “Act 135 prohibits contracts in excess of one year, unless in the ordinary course of business, or unless otherwise expressly permitted. Swap contracts would have a term longer than a year, and because we had never transacted a Swap, it is questionable whether they are in the ordinary course.”⁵ Santee Cooper concluded the preparatory actions taken related to interest rate swaps were prudent and did not result in binding commitments. As of March 4, 2021, Santee Cooper has spent over \$80,000 with outside experts on development and review of the interest rate swap policy and subsequent discussions.

On March 16, 2021, Santee Cooper provided several supplemental responses to ORS related to the review performed by ORS in response to the letter dated October 29, 2020, from the SCOC. Santee Cooper indicated that it continues to evaluate the capital budget and projects to determine tax-exempt eligibility of project expenditures to be funded with the new money proceeds from the 2020A bond issuance. Santee Cooper reimbursed the CIF for approximately \$3.9 million of tax-exempt expenses made in January 2021. The project detail of the reimbursement prepared by Santee Cooper is reflected below:

⁵ Santee Cooper Response to ORS Question 1 dated March 4, 2021.

Distribution System	\$	584,030.42
VC Summer 1		-
Winyah Generating Station		382,818.19
Cross Generating Station		2,200,736.82
Rainey Generating Station		719,455.74
	\$	<u>3,887,041.17</u>

The remaining proceeds from the 2020A bond issuances will be used toward tax-exempt qualified projects in 2021. A tax analysis of potential projects based on budgeted cash flows was completed and Santee Cooper indicates it plans to use the remaining proceeds on capital projects including improvements to existing power supply facilities, improvements to the distribution system, and other general improvements to the system. Santee Cooper plans to initially pay expenditures from the CIF and then reimburse the fund from debt proceeds. Expenditures and reimbursements are expected to be completed between January and October 2021.

On March 23, 2021, Santee Cooper reported that, in February 2021, three banks submitted pricing proposals regarding the 2019A Letter of Credit. Santee Cooper stated it worked with its financial advisor to evaluate the proposals and further negotiate with the banks. Santee Cooper reported that it elected to extend its current letter of credit with the requirement that the par amount of the variable rate demand bond be reduced from \$160,695,000 to \$143,200,000 and stated that it plans to utilize a portion of its existing commercial paper capacity to pay down \$17,495,000 of 2019A bonds. Santee Cooper also reported that, in March 2021, it began reviewing drafts of the amendment to extend a banking agreement and to take steps to issue commercial paper to pay down the par amount of the 2019A Letter of Credit with the expectation that these actions should be finalized in March 2021.

ORS Review Results

ORS determined Santee Cooper did not take action that violated the terms contained in Section 11 subsection E (8) of Act 135 during the Review Period. In light of Santee Cooper's preparatory actions on interest rate swaps and the permissible activity under Act 135, ORS recommends that the SCOC review and provide further instruction to ORS and Santee Cooper regarding whether planning efforts related to interest rate swaps, the adoption of an interest rate swap management policy, and the negotiation of ISDA master agreements are permissible under Act 135.

Resolve Lawsuits & Claims

- (E) *Nothing in this section prohibits Santee Cooper from:*
 - (9) *resolving outstanding lawsuits and claims*

Summary of Santee Cooper Activities during Review Period

ORS's review of the information provided by Santee Cooper indicates Santee Cooper filed various pleadings in litigation matters, engaged in various settlement discussions with opposing party representatives, and conducted other litigation activities.

Santee Cooper reported that, during the Review Period, it engaged in discussions with Century with the intent of executing a new electric service agreement ("Century Agreement"). The Century Agreement would serve as settlement consideration for mutual release of all claims between the parties. On March 22, 2021, the Board approved a modified version of the Century Agreement, the details of which are discussed in Section 11 subsection E(11) of this report. Santee Cooper reported that, upon the execution of the Century Agreement, the following outstanding litigations would be resolved:

- *Century Aluminum v. South Carolina Public Service Authority* (Case No. 2020-CP-08-00955)
- *Goose Creek v. South Carolina Public Service Authority* (Case No. 2020-CP-08-00821)
- *City of Goose Creek, South Carolina v. South Carolina Public Service Authority* (Docket No. EL20-33-000)

During the Review Period, in *South Carolina Public Service Authority v. Gunsight Solar, LLC* (Case No. 3:20-cv-03913-JMC), the parties continued the litigation by filing various pleadings and discussing potential mediation dates

On January 21, 2021, in *George M. Hearn Jr., on Behalf of Himself and All Others Similarly Situated v. South Carolina Public Service Authority d/b/a Santee Cooper* (Case No. 2017-CP-26-05256), Santee Cooper received a settlement demand from the Plaintiffs. Additionally, the parties agreed to a mediation date of February 3, 2021. During the Board Meeting on March 22, 2021, the Board approved a settlement agreement for an amount of \$12.5 million to the Plaintiffs.

On January 25, 2021, in *Murry C. Turka v. South Carolina Public Service Authority* (Federal Case No. 2:19-cv-1102-RMG),⁶ the Board approved the execution of the finalized settlement agreement, and the agreement was then executed by the parties. Furthermore, on January 25, 2021, the Lead Plaintiff filed a motion approving the settlement.

ORS Review Results

ORS determined Santee Cooper did not take action that violated the terms contained in Section 11 subsection E (9) of Act 135 during the Review Period.

⁶ Santee Cooper January Board of Directors meeting, <https://vimeo.com/504336262> at 3:17:15.

Address the Impacts of COVID-19

- (E) *Nothing in this section prohibits Santee Cooper from:*
(10) *taking whatever steps are prudent and consistent with good utility practice to address the impact of the COVID-19 pandemic*

Summary of Santee Cooper Activities during Review Period

ORS's review of the information provided by Santee Cooper indicates Santee Cooper continued efforts to manage the COVID-19 pandemic and implement its pandemic response plan through the Corporate Incident Management Team ("CIMT"). Through weekly meetings, the CIMT took the following actions:

- Conducted weekly calls to identify issues related to COVID-19 throughout the company and to provide updates on company guidelines
- Updated published guidelines and coordinated mass communication to employees

Santee Cooper stated that all guidelines are developed under advisement of Safety and Occupational Health and review of information provided by SC Emergency Management Division, SCDHEC, National Center for Disease Control, other utilities, local and state ordinances and other information.

In addition to the actions of the CIMT, Santee Cooper reported that it took the following actions:

- Implemented saliva testing in critical areas
- Continued working on a vaccine plan

ORS Review Results

ORS determined Santee Cooper did not take action that violated the terms contained in Section 11 subsection E (10) of Act 135 during the Review Period.

Rate Freeze as Required by Settlement

- (E) *Nothing in this section prohibits Santee Cooper from:*
(11) *freezing rates as provided in the settlement of Cook v. Santee Cooper, et al.*

Summary of Santee Cooper Activities during Review Period

ORS's review of the information provided by Santee Cooper indicates Santee Cooper implemented the Rate Freeze for Residential, Commercial and Lighting Customers approved by the Board during the July 31, 2020, Board Meeting. Santee Cooper held

internal discussions to finalize the internal process for identifying and evaluating potential settlement exceptions as defined in the Cook Settlement Agreement.

As discussed previously in the section regarding Winyah Closing & Decommissioning, during the January 25, 2021, Board Meeting, the Board approved an experimental rate schedule based on Rate L-17 to serve Century, which would become effective April 1, 2021, as part of the Century Agreement. Santee Cooper indicated during the Board Meeting that the experimental rate schedule would not be subject to the Rate Freeze contained in Section 11 subsection E (11) of Act 135. However, ORS does not have sufficient information to determine if or how the proposed agreement would affect the Rate Freeze.

By letter dated February 1, 2021, owing to the Century Agreement's three-year term exceeding the one-year limit set by Act 135, Santee Cooper requested the SCOC approve the agreement. At that time, Santee Cooper noted that, if the SCOC approved Century Agreement, it would need to be finalized and approved by the Board prior to its implementation. On March 9, 2021, the SCOC responded to this request stating that it had no jurisdiction over setting rates for Santee Cooper or its customers. By letter dated March 10, 2021, Santee Cooper sought clarification of SCOC's response in relation to the approval of the Century Agreement.

During the Board Meeting on March 22, 2021, Santee Cooper stated that it modified the terms of the Century Agreement to limit its initial term to one year from April 1, 2021, to March 31, 2022, for the purpose of complying with the one-year contract limit set by Act 135. Thereafter, the agreement reportedly would continue in effect through December 31, 2023, unless further prohibited by Act 135. The Board approved this modified Century Agreement, as well as the withdrawal of a retail rate, CSP-16. Santee Cooper reported that CSP-16 only applies to Century and is not one of the rates frozen under the *Cook Settlement*.

ORS Review Results

ORS determined Santee Cooper did not take action that violated the terms contained in Section 11 subsection E (11) of Act 135 during the Review Period. The review by ORS does not evaluate overall compliance with the *Cook Settlement* in accordance with Act 135 Section 11(A).

However, ORS notes that Santee Cooper provided limited information to ORS regarding the modified Century Agreement that was approved by the Board on March 22, 2021. Therefore, ORS is unable to determine whether the agreement would potentially affect the Rate Freeze, thereby violating Section 11 subsection E (11).

ORS Review of Information provided by Santee Cooper to ORS Outside of the Review Period

Santee Cooper has provided ORS with additional information outside of the process established by ORS to complete the monthly reviews required by Act 135. ORS provides a brief summary of the information provided by Santee Cooper below:

- March 3, 2021: Santee Cooper provided (via email) to ORS a copy of a summary document sent to the SCOC titled “V.C. Summer Litigation Resolved to Benefit Customers.” The summary reported that all major nuclear-related litigations against Santee Cooper have been resolved and included the status information on those resolutions.
- March 4, 2021: ORS received from Santee Cooper (via email) responses to the supplemental questions regarding its activities related to interest rate swaps.
- March 11, 2021: Santee Cooper provided (via email) to ORS a copy of a summary report sent to the SCOC titled “A Leaner, Greener Resource Plan for Santee Cooper” wherein the key elements of Santee Cooper’s resource roadmap were presented.
- March 11, 2021: Santee Cooper provided (via email) to ORS a copy of SCOC’s response dated March 9, 2021, to Santee Cooper’s February 1, 2021, letter seeking approval of the proposed electric service agreement with Century. Santee Cooper also provided ORS its letter to the SCOC dated March 10, 2021, where it sought clarification on SCOC’s response. Additionally, in that letter, Santee Cooper requested SCOC’s response to its request seeking approval of its proposed long-term natural gas hedging strategy.
- March 15, 2021: Santee Cooper provided (via email) to ORS an overview of the Board agenda items to be discussed during the March 22, 2021, Board Meeting.
- March 22, 2021: Santee Cooper provided (via email) to ORS correspondence sent to Senator Luke Rankin related to reform legislation.
- March 31, 2021: Santee Cooper notified ORS (via email) that its Executive Energy Management Committee approved placing natural gas hedges in 2025. Specifically, Santee Cooper acknowledged that Act 135 Section 11(E) allows it to enter into natural gas hedging arrangements for terms not to exceed five years, or such longer period of time as may be approved by the SCOC. Santee Cooper stated that, as of the beginning of March 2021, natural gas hedges were placed through 2024, but coverage dropped to 0% in 2025 and beyond. Santee Cooper asserted that forward curve pricing for 2025 currently is below current year prices and that implementing additional natural gas hedges in 2025 would reduce overall system fuel rate risk. Santee Cooper stated that it plans to place natural gas hedges in 2025 to cover 68% of projected gas burns in that year, that its fuel group has placed 90% of those hedges to date, and that it will work to place the rest of the hedges in the coming weeks. Santee Cooper advised that it interprets Act 135

to allow this activity as the hedges do not exceed the five-year term permitted thereunder.

ORS.SC.GOV

Office of Regulatory Staff

1401 Main Street

Suite 900

Columbia, SC 29201

