

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO ALLEGED	)	
VIOLATIONS OF KRS 278.160, 807 KAR 5:006,	)	
AND COMMISSION ORDERS BY SALT RIVER	)	
ELECTRIC COOPERATIVE CORP., SALT RIVER	)	Case No.
ELECTRIC COOPERATIVE CORP.'S BOARD OF	)	2020-00347
DIRECTORS: JIMMY LONGMIRE, CHAIRMAN;	)	
A.C. "HAPPY" CAHOE, VICE CHAIRMAN; LINDA	)	
WEST, SECRETARY; GAYLE TROUTMAN,	)	
TREASURER; DARRELL TINGLE, DIRECTOR;	)	
AND GARRY MANN, AND SALT RIVER ELECTRIC	)	
COOPERATIVE CORP.'S PRESIDENT AND	)	
CHIEF EXECUTIVE OFFICER, TIM SHARP	)	

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**SUPPLEMENTAL RESPONSE TO ORDER**

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Comes now Salt River Electric Cooperative Corporation ("Salt River Electric"), by counsel, and in supplement to its initial response<sup>1</sup> to Ordering Paragraph 4 of the Order entered by the Commission initiating the above-styled matter on October 22, 2020 (the "Order"), it respectfully states as follows.

The Commission initiated this proceeding to investigate whether Salt River Electric may have violated its tariff, relevant statute, and/or the regulations and Orders of the Commission pertaining to certain member service disconnections for nonpayment. At the outset, Salt River Electric desires to make clear the limited scope of disconnections for nonpayment that occurred prior to the issuance of the Order. Specifically, while Salt River Electric disconnected certain prepay accounts that had made no payments whatsoever, it did not disconnect any postpay

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<sup>1</sup> See Response to Order (filed October 23, 2020).

accounts. Although in hindsight its communications could have been clearer that postpay accounts would be, at most, “subject to potential disconnection” if appropriate payments on both current and moratorium-related arrearages were not made, Salt River Electric affirms that it never willfully intended to disconnect a member in violation of any applicable authorities.

As the documentation attached to these responses shows, Salt River has – throughout the Commission’s moratorium – remained attuned to the importance of both communicating proactively with its members and working with them to develop appropriate payment plans. Member service is a hallmark of the cooperative program, and that spirit helps explain why Salt River Electric has developed a default plan of nine months (rather than the six month minimum required by the Commission) and has unfailingly worked in cooperation with its members to implement different repayment plans that help meet member needs whenever requested.

During the months of the disconnect moratorium instituted by the Commission in response to the COVID-19 state of emergency,<sup>2</sup> Salt River Electric did not disconnect any of its accounts, including prepay accounts with negative balances. Instead, it focused its efforts during this time on ensuring that its members remained informed of their growing balances and were aware of the community resources available to them. In support of that objective, Salt River Electric made multiple website and social media posts, phone calls, and coordinated mass communications to invite ongoing dialogue and promote member responsibility. Salt River redoubled those efforts in light of the Commission’s decision to lift the moratorium on disconnects for nonpayment beginning October 20, 2020.

By and large, Salt River Electric’s extensive efforts to communicate and cooperate with its member-owners have been overwhelmingly successful (despite some significant remaining

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<sup>2</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID- 19* (Ky. P.S.C. Mar. 16, 2020).

arrearages) because they have resulted in most members returning communication to discuss available options and ensure service continuity. As discussed below, however, a small number of members have been completely nonresponsive to date. In the case of a prepay member who made no contact and no payment whatsoever on their account, the account was disconnected on October 21-22. But, as of the date of the Order, no decision regarding the potential disconnection of postpay members had been fully evaluated or finalized.

Nevertheless, as represented in its October 23, 2020, filings, and as an affirmation of its good faith willingness to comply with applicable authority, Salt River Electric hereby reconfirms that it has: (i) reconnected each of the prepay accounts that were disconnected on October 21-22; and (ii) indefinitely suspended all disconnections for nonpayment pending further order of the Commission. Against this background, Salt River Electric now provides further detail regarding its prepay and postpay accounts, as well as a detailed subsequent response to the specific allegations contained in the Commission's Order.

## **I. Prepay Accounts**

At the outset, it is imperative to understand that the only accounts disconnected by the cooperative on October 21-22, 2020 were prepay accounts. Each is an account served under Salt River Electric's filed and approved voluntary prepay tariff rider, which permits the member to pay in advance for utility service by purchasing credit for future use. Oftentimes members select this option to better manage their energy use and avoid paying a deposit or incurring large arrearages, as well as to avoid late fees and disconnect/reconnect charges generally applicable to traditional postpay service.<sup>3</sup> Prepay account holders are alerted by automated message when remaining funds

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<sup>3</sup> See Tariff, P.S.C. No. 12, 2<sup>nd</sup> Original Sheet 81B, at "Member Benefits".

on account reach a minimum threshold.<sup>4</sup> Pursuant to Salt River Electric's filed and approved prepay tariff, "[a] prepay account will be disconnected if the balance of the account becomes negative, regardless of weather/temperatures."<sup>5</sup>

On Tuesday, October 21, 2020, a total of 311 prepay accounts had negative balances, had made no payments, and had not responded to any of the communications (including daily low-balance/pending-auto-disconnect alerts by phone, email, and/or text) made by Salt River Electric. At that point and consistent with the terms of its tariff, Salt River Electric permitted the subject prepay accounts with negative balances to auto-disconnect. Of those 311 accounts, 249 members quickly contacted Salt River Electric and were promptly reconnected and enrolled in debt management, where the cooperative's tariffed 70/30 splitting factor will be applied going forward, absent a member request for other arrangements. Of the 62 prepay accounts that remained disconnected as of October 23 (but which were subsequently reconnected as indicated in Salt River Electric's filing that evening),<sup>6</sup> two such members eventually called-in to indicate that they had actually moved from the residence and no longer wanted service or responsibility for the bill.<sup>7</sup> As of the date of this filing, twenty-three other previously-disconnected members have subsequently made contact and arranged to move the arrearage to debt management, consistent with the cooperative's tariffed 70/30 splitting factor.<sup>8</sup> Two other members called to object to an obligation to make any payment, but Salt River Electric has – consistent with its commitment to temporarily pause disconnections for nonpayment – continued their service. For the remainder, however, Salt River Electric continues to have received no communication and no payment whatsoever. And

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<sup>4</sup> See Tariff, P.S.C. No. 12, 2<sup>nd</sup> Original Sheet 81B, at "Other," Sections D, F.

<sup>5</sup> See Tariff, P.S.C. No. 12, 2<sup>nd</sup> Original Sheet 81B, at "Other," Section B; *see also* Section H (restricting availability of the prepay tariff rider to homes without medical conditions impacted by loss of electric service).

<sup>6</sup>  $311 - 249 = 62$ .

<sup>7</sup> Out of a sheer abundance of caution, Salt River Electric would appreciate clarification that service discontinuance upon such member request remains appropriate.

<sup>8</sup> Two of these members setup new accounts to transition service into their name.

although Salt River Electric has no direct knowledge of whether the associated premises have been vacated, it believes that is likely given the lack of any service restoration outreach from that small remaining subset of members. Thus, with respect to all of the prepay accounts disconnected for nonpayment by Salt River Electric on October 21-22, 2020, the circumstances were precisely those identified by the Commission: none made any payment at all.<sup>9</sup>

## **II. Postpay Accounts**

Of course, disconnect practices and timelines associated with postpay accounts are different than those associated with prepay accounts. Salt River Electric acknowledges that disconnections of postpay accounts prior to October 29, 2020, would have been inconsistent with the Commission's orders, as well as the applicable tariffs and regulations. That said, Salt River Electric's actual intention, though (with the benefit of hindsight) perhaps imprecisely conveyed, was to simply begin the process of commencing disconnection procedures and evaluating delinquent postpay accounts for disconnection with its normal cycles, starting with the cycle beginning Tuesday, October 27.

By way of background, Salt River typically commences its ordinary postpay disconnection processes on Tuesdays, though importantly no disconnection ordinarily occurs without a subsequent internal verification by the manager of billing that such disconnection would comply with Salt River Electric's tariff and the applicable regulation, which in this case are the same. This evaluation would also include manual review of the account to ensure that no billing error has occurred, manual evaluation of notice mailing date, confirmation that the appropriate period of time has passed since notice, one final attempt by customer service representatives to personally

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<sup>9</sup> See Order, at 6 (“Unless a customer refuses to make any payment on a prepay account, it is difficult to discern a situation in which Salt River Electric would already be disconnecting prepay customers”)(emphasis added).

contact the member and notify them of the impending disconnect, as well as other factors, before a disconnection order is actually transferred to a meter-reader for effectuation.<sup>10</sup> Any actual disconnection of service is held until all requirements are met and resources are available.

To be clear, however, Salt River Electric has never desired to disconnect any member facing financial difficulty associated with the state of emergency. It has merely attempted through multiple channels to motivate reciprocal communication from its members in an effort to help them through the pandemic without losing service. Salt River Electric did not disconnect and would not have disconnected (and certainly will not disconnect) any postpay accounts considered “on-time” under the Commission’s Orders lifting the disconnect moratorium and all other applicable authorities.<sup>11</sup> Salt River Electric’s default payment plan offers all postpay member accounts with moratorium-related arrearages a nine-month payment plan for those balances, and as always, Salt River will continue to be flexible in working with its members to appropriately manage repayment of arrearages in a fair and responsible manner consistent with applicable authorities and member and cooperative needs.

### **III. Responses to Commission Inquiries**

The Commission’s Order directs Salt River Electric to respond to allegations that its actions violated: (i) its tariff procedures for disconnection; (ii) 807 KAR 5:006; and (iii) the Commission’s orders of September 21<sup>st</sup> and 30<sup>th</sup>. The Commission’s Order also requests “[t]horough descriptions of the cooperative’s attempts to contact its members regarding partial payment plans, as well as

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<sup>10</sup> The “other factors” can include an evaluation of weather; availability of customer service representatives, linemen, and meter readers; and other extenuating circumstances. As a consequence of the COVID-19 pandemic, for example, Salt River Electric’s workforce who would be involved in this process has been limited due to positive tests, quarantines, and childcare issues related to school and daycare closings.

<sup>11</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID- 19* (Ky. P.S.C. Sept. 21, 2020, and Sept. 30, 2020).

detailed descriptions of Salt River Electric's efforts to notify its customers of the availability of payment plans." Against the backdrop of the information provided above, Salt River Electric addresses each of these items below.

**A. Alleged Violation of Tariff.**

- Prepay Accounts

Salt River Electric's prepay tariff rider provides for disconnection when a customer's account balance becomes negative.<sup>12</sup> That is precisely what occurred here, where the disconnected prepay members were only those who fell exactly into the category that the Commission identified as subject to potential disconnection.<sup>13</sup> If a prepay customer made absolutely no payment, then the account was disconnected as permitted. Therefore, for the reasons explained above, disconnection of these customers did not violate Salt River Electric's prepay tariff.

- Postpay Accounts

Salt River Electric reiterates that it has not disconnected any postpay accounts for nonpayment since before the Commission-imposed moratorium in March 2020. Thus, it has not violated its tariff procedures for disconnection of such customers. Although Salt River Electric acknowledges that it could have taken better care to have emphasized that certain postpay customers may be *subject to potential disconnection* or that disconnection *procedures* may commence as of a date certain (rather than that they *will be* disconnected or that disconnects *will resume*), it certainly was not Salt River Electric's intention to threaten that which it could not deliver, as explained above. Rather, it intended only to motivate reciprocal communication from members in arrearage and inform them of the

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<sup>12</sup> See fn. 5, *supra*.

<sup>13</sup> See fn. 8, *supra*.

impending change to the status quo and the debt management options available to them, consistent with the Commission's orders concluding the moratorium on disconnections for nonpayment. Salt River Electric will certainly take more care with the language of its communications of this nature, going forward.

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To be clear, Salt River Electric expressly reaffirms its obligation and intent to comply with the terms of its tariff at all times.

**B. Alleged Violation of Regulation**

- Prepay Accounts

The Commission's regulations governing advance termination notices do not govern Salt River Electric's prepay arrangements, as the Commission specifically granted a deviation to Salt River Electric in conjunction with its initial approval of the relevant tariff rider's predecessor in 2012.<sup>14</sup> Salt River has complied with the terms of its prepay tariff. Therefore, Salt River Electric does not believe it has violated any Commission regulation.

- Postpay Accounts

The Commission's administrative regulations addressing a utility's procedures for termination of postpay electric service are set out at 807 KAR 5:006, Section 15. As noted by the Commission, Salt River Electric's tariff mimics the requirements of the regulation, which concerns disconnection for nonpayment by postpay customers.<sup>15</sup> Salt River Electric

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<sup>14</sup> See *In the Matter of: Application of Salt River Electric Cooperative Corporation for Approval of a Prepay Metering Pilot Program* (Ky. P.S.C. July 11, 2012). It is also worth noting that prepay arrangements do not truly involve "contract[s] for service" sought to be "terminate[d]" by a utility, or even "bills" under the intended sense of the word. See 807 KAR 5:006, Section 15(f). Instead, prepay tariff riders reflect voluntary arrangements involving member-prepaid funds where service simply discontinues when funds are exhausted. Salt River's prepay service terms and conditions are set out in its filed and approved prepay tariff, discussed above.

<sup>15</sup> See Order, at 5.



has not disconnected any postpay customers for nonpayment. Consequently, it does not believe it has violated the applicable regulation.

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To be clear, Salt River Electric expressly reaffirms its obligation and intent to comply with the Commission's regulations at all times.

C. **Alleged Violation of Commission Orders.** Salt River Electric believes it has followed the Commission's Orders entered in Case No 2020-00085.

- **Prepay Accounts**

Salt River Electric complied with its tariff and applicable regulations, each of which were incorporated in the Commission's COVID orders. In addition, as explained and further demonstrated by the documentation produced with this filing, Salt River Electric made extensive efforts to contact all negative-balance prepay customers via text, email, and/or telephone prior to disconnection.<sup>16</sup> All prepay customers that reciprocated contact were allowed to either: (i) continue prepay service by putting the arrearage in debt management, with future payments being subject to Salt River Electric's default, tariffed 70/30 split; or (ii) convert the account to a post-pay account, in which case the owed amounts could be transferred into the nine month default debt management program or some other debt management plan (consistent with the Commission's orders) that helped the member better manage the arrearage.<sup>17</sup> As explained above, Salt River Electric disconnected only those prepay members who made no payment whatsoever prior to

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<sup>16</sup> These prepay member-specific communications were in addition to the other, more general communications referenced and attached in the response to subpart D, below.

<sup>17</sup> To date, no prepay member has requested the options described in this romanette (ii).

disconnection, and then only after the multiple communications to that member had gone unheeded and failed to prevent that outcome.<sup>18</sup>

- Postpay Accounts

Salt River Electric has not disconnected any postpay customers for nonpayment of arrearages; therefore, it has not violated its tariff or applicable regulations, each of which were incorporated in the Commission's COVID orders. Furthermore, as explained and demonstrated by the documentation produced with this filing, Salt River Electric has likewise communicated extensively to its membership regarding opportunities for affected postpay members to manage arrearages accumulated between March 16 and October 1. For postpay members, Salt River Electric has continued throughout the moratorium to provide notice of arrearages through separate bill and late notices. It has made automated and manual calls, sent emails, and mailed letters to members, informing those in arrears that the disconnect moratorium was being lifted. Similar communications were periodically posted to Salt River Electric's internet homepage and Facebook webpage; notices were run in *Kentucky Living* magazine, which is a monthly periodical that all Salt River Electric members receive; and a press release was issued to local newspapers, radio stations, and the local television station, as well.

The resounding theme of its communications and its discussions with members (as borne out in the documentation attached in connection with subpart D, below) has been that Salt River Electric wants to keep its members apprised of any growing arrearages and that Salt River will work with its members to make flexible payment arrangements suitable

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<sup>18</sup> In recognition of its obligation to provide service to any prepay member who made at least some payment on the account, Salt River Electric also reiterates that it immediately (and prior to the Order) reconnected each of those 249 initially-affected prepay customers who subsequently called to make payment for service.

for their individual circumstances. Salt River Electric's default arrangement, as noted, has been established at nine (9) months in duration, but it is, of course, willing to work with its members' reasonable needs, and it has therefore accepted certain plans for substantially longer to meet member and cooperative needs.

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To be clear, Salt River Electric expressly reaffirms its unwavering obligation and intent to comply with both the letter and spirit of the Commission's directives as set forth in the relevant Orders.

**D. Communication with Members regarding Payment Plans.** As stated above, Salt River Electric has undertaken significant, coordinated efforts to ensure its membership remains well-informed and up-to-date with respect to relevant obligations and opportunities concerning arrearages accrued during the moratorium. Those actions include the following.<sup>19</sup>

- Account Nonspecific Communications:

- Multiple postings on Salt River Electric webpage ([www.srelectric.com](http://www.srelectric.com))<sup>20</sup>
- Multiple postings on Salt River Electric Facebook page ([www.facebook.com/saltriverelectric](http://www.facebook.com/saltriverelectric))<sup>21</sup>
- Multiple notices in *Kentucky Living* magazine, which is a monthly periodical that is provided to all Salt River Electric members<sup>22</sup>
- Multiple phone calls throughout the moratorium to affected customers, reminding them that although the moratorium was in effect, the member is ultimately responsible for any outstanding bill.
- Press release distributed to local newspapers, radio stations, and television stations.<sup>23</sup>

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<sup>19</sup> Documentation evidencing these actions is attached to this pleading as Exhibit A.

<sup>20</sup> Documents attached as SR Ex. A - Pages 1 - 5.

<sup>21</sup> Documents attached as SR Ex. A - Pages 6 - 15.

<sup>22</sup> Documents attached as SR Ex. A - Pages 16 - 18.

<sup>23</sup> Document attached as SR Ex A - Pages 19 - 20. This communication was disseminated to *The Kentucky Standard*, *The Spencer Magnet*, *The Springfield Sun*, and *The Pioneer News*, as well as television station PLG-13 and radio stations WAKY, WBRT, WOKH, and WLSK.

- Prepay-Specific Account Communications: In addition to the general communications described above and produced herewith, Salt River Electric has made the following additional communications to its prepay members with arrearages.
  - Automated daily text and/or email messages when account reaches a minimum threshold of \$20.00.<sup>24</sup>
  - Separate, automated daily text and/or email messages, beginning in September, warning that service is “Pending Auto Disconnect” when a balance was negative.<sup>25</sup>
  - Automated calls beginning on October 14, requesting that members get in touch to avoid service interruption.<sup>26</sup>
  - For the small number of customers who could not be reached by automated call, text, or email, a letter was sent to the account address of record indicating that the Commission’s moratorium on disconnections was to be lifted on October 20, 2020, and requesting that members get in touch to avoid disconnection.<sup>27</sup>
- Postpay-Specific Account Communications: In addition to the general communications described above and produced herewith, Salt River Electric has made the following additional communications to its postpay members with arrearages.
  - Automated calls notifying customers of local community resources and reminding customers of growing balances.<sup>28</sup>
  - On the day following a bill due date, Salt River Electric generates a “Friendly Reminder” that is mailed to the member. The “Friendly Reminder” notifies the member of the past due balance and warns of disconnection if appropriate payment or payment arrangements are not made.<sup>29</sup>
  - Once the Commission indicated that the moratorium on disconnects would be lifted on October 20, members with accounts in arrears were personally called by a customer service representative, who would

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<sup>24</sup> Document attached as SR Ex. A – Page 21.

<sup>25</sup> Document attached as SR Ex. A – Page 22.

<sup>26</sup> Document attached as SR Ex. A – Page 23.

<sup>27</sup> Document attached as SR Ex. A – Page 24. This letter was the same as the letter sent to post-pay members with arrearages.

<sup>28</sup> Document attached as SR Ex. A – Page 25.

<sup>29</sup> Documents attached as SR Ex. A – Pages 26 - 27. Salt River Electric notes that these notices are generated through its external billing vendor, and therefore change to these forms can be cumbersome and untimely. Because the period and nature of the moratorium remained uncertain and subject to change at any minute, Salt River Electric elected not to change its pre-existing automated notices. Instead, it attempted to mitigate any potential member confusion by undertaking each of the other communication efforts identified in this filing and instructing customer service representatives to respond to questions about the notice by informing customers that while they remain responsible for their arrearages, no disconnections would be processed during the moratorium.

- explain available repayment plans and work with members to implement payment arrangements suitable for their circumstances.
- Members with accounts in arrears who had been unreachable by phone or email received a separate physical letter encouraging them to contact Salt River Electric to make arrangements for working out a payment plan.<sup>30</sup>

In addition to these documents, Salt River Electric has also attached multiple internal emails<sup>31</sup> corroborating its efforts and willingness to help its members receive flexible and compassionate payment arrangements to address arrearages accumulated during the moratorium.

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It is Salt River Electric's hope that the attached documents and this filing demonstrate that the cooperative has made extensive and thorough efforts to communicate with each of its members in arrears. As a member-owned cooperative, Salt River Electric's overarching goal has been to assist its members by advising them of the flexible options available to ensure continuity of service with minimal hardship throughout and after the moratorium.

Salt River Electric's outlook and delivery of service throughout this pandemic has striven to be not just fair, just and reasonable, but truly compassionate—a concern reflected in the direction provided by the Board, implemented by the cooperative's leadership, and ultimately executed by a team of dedicated staff. Salt River Electric remains committed to continued improvement in communicating with and serving its owner-members, now and in the future.

This 30<sup>th</sup> day of October, 2020.

Respectfully submitted,

**DINSMORE & SHOHL LLP**

/s/ Edward T. Depp

Edward T. Depp

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<sup>30</sup> Document attached as SR Ex. A – Page 28.

<sup>31</sup> Documents attached as SR Ex. A – Pages 29 – 52.

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*Counsel to Salt River Electric Cooperative  
Corporation*

### **CERTIFICATION**

I hereby certify that the electronic version of this filing made with the Commission on October 30, 2020, is a true and accurate copy of the paper document that will be submitted to the Commission within 30 days of the Governor lifting the state of the emergency pursuant to the Commission's Orders in Case No. 2020-00085, and the electronic version of the filing has been transmitted to the Commission. A copy of this filing has been served electronically on all parties of record for whom an email address is given in the online Service List for this proceeding, and there are currently no parties that the Commission has excused from participation by electronic means.

/s/ Edward T. Depp  
*Counsel to Salt River Electric Cooperative  
Corporation*

## VERIFICATION

Comes the Affiant, Tim J. Sharp, after being duly sworn, and states that he is the President and Chief Executive Officer of Salt River Electric Cooperative Corporation and that he has read the foregoing Response and that the factual statements made therein are true and accurate to the best of his knowledge and belief.

**SALT RIVER ELECTRIC COOPERATIVE  
CORPORATION**

By:

Tim J. Sharp

President and Chief Executive Officer

COMMONWEALTH OF KENTUCKY )

) SS:

COUNTY OF NELSON

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The foregoing instrument was subscribed, sworn to, and acknowledged before me this 30<sup>th</sup> day of October, 2020, by Tim J. Sharp.

**My commission expires:**

Diana R. Edwards  
NOTARY PUBLIC

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