



Control Number: 44698



Item Number: 1

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DOCKET NO. **44698**

APPLICATION OF SOUTHWESTERN §
PUBLIC SERVICE COMPANY TO §
ADJUST ITS ENERGY EFFICIENCY §
COST RECOVERY FACTOR §

PUBLIC UTILITY COMMISSION

OF TEXAS

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**APPLICATION OF SOUTHWESTERN PUBLIC SERVICE COMPANY
TO ADJUST ITS ENERGY EFFICIENCY COST RECOVERY FACTOR**

Contact: Brooke A. Trammell

Phone: (806) 378-2415

Fax: (806) 378-2820

May 1, 2015

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**APPLICATION OF SOUTHWESTERN PUBLIC SERVICE COMPANY TO
ADJUST ITS ENERGY EFFICIENCY COST RECOVERY FACTOR** § **PUBLIC UTILITY COMMISSION**
§
§
§ **OF TEXAS**

**APPLICATION OF SOUTHWESTERN PUBLIC SERVICE COMPANY
TO ADJUST ITS ENERGY EFFICIENCY COST RECOVERY FACTOR**

Southwestern Public Service Company (“SPS”) files this Application to Adjust its Energy Efficiency Cost Recovery Factor (“Application”) pursuant to P.U.C. SUBST. R. 25.181 (“Rule 25.181”). In support thereof, SPS would respectfully show as follows:

I. JURISDICTION

The Public Utility Commission of Texas (“Commission”) has jurisdiction over SPS and the subject matter of this Application pursuant to Rule 25.181 and sections 14.001, 32.001, 36.001, 36.204, and 39.905 of the Public Utility Regulatory Act (“PURA”).¹

II. PARTIES AFFECTED

The parties that will be affected by the relief requested in this Application are all of SPS’s Texas retail customers receiving service at a metered point of delivery at a voltage less than 69 kilovolts (“kV”), except those industrial customers that have opted out of SPS’s energy efficiency programs in accordance with Rule 25.181(w). This Application also will affect non-profit customers or governmental entities, including educational institutions that are receiving service at a metered point of delivery at a voltage at or above 69 kV.

III. BACKGROUND

Rule 25.181(f) authorizes the Commission to approve an Energy Efficiency Cost Recovery Factor (“EECRF”) to recover all of a utility’s forecasted annual energy efficiency program costs, the preceding year’s over- or under-recovery that includes municipal and utility EECRF proceeding expenses (“rate case expenses”), any performance bonus earned, and

¹ PURA is codified at TEX. UTILS. CODE ANN. § 11.001 – 66.016 (Vernon 2008 and Supp. 2014).

Evaluation, Measurement, and Verification (“EM&V”) costs allocated to the utility by the Commission. SPS is required to file an application on or before May 1st of each year to adjust its EECRF to become effective on January 1st of the following year.

SPS received Commission approval to implement its first EECRF rider in Docket No. 39364 to recover \$2.9 million in energy efficiency costs.² The EECRF rider was implemented on January 1, 2012. SPS adjusted its EECRF rider in Docket No. 40293 to recover \$2.930 million in energy efficiency costs associated with SPS’s Program Year (“PY”) 2013.³ SPS again adjusted its EECRF rider in Docket No. 41446 to recover \$3.062 million in energy efficiency costs associated with SPS’s PY 2014.⁴ Most recently, SPS adjusted its EECRF rider in Docket No. 42454 to recover \$2.395 million in energy efficiency costs associated with SPS’s PY 2015.⁵

In accordance with Rule 25.181, SPS seeks Commission approval to adjust its EECRF rider to recover \$2,845,862 in costs associated with SPS’s PY 2016 energy efficiency programs as adjusted by an over-recovery in 2014 and rate case expenses incurred in its 2014 EECRF proceeding, effective January 1, 2015.

IV. DESCRIPTION OF APPLICATION

a) **EECRF Rider Adjustment.** SPS’s forecasted energy efficiency program costs for PY 2016 (including program and administrative costs) are \$3,390,062. This amount must be adjusted to: (1) subtract \$672,864 of over-recovery from PY 2014; (2) and add \$128,663 in EECRF rate case expenses incurred in Docket No. 42454, SPS’s 2014 EECRF proceeding. Therefore, SPS requests approval from the Commission to implement an EECRF rider sufficient to recover \$2,845,862 during PY 2016.

² *Application of Southwestern Public Service Company for Approval of Energy Efficiency Cost Recovery Factor*, Docket No. 39364, Final Order (Sept. 2, 2011).

³ *Application of Southwestern Public Service Company for Approval to Adjust its Energy Efficiency Cost Recovery Factor*, Docket No. 40293, Final Order (June 28, 2012).

⁴ *Application of Southwestern Public Service Company for Approval to Adjust its Energy Efficiency Cost Recovery Factor*, Docket No. 41446, Final Order (Nov. 4, 2013).

⁵ *Application of Southwestern Public Service Company for Approval to Adjust its Energy Efficiency Cost Recovery Factor*, Docket No. 42454, Final Order (Nov. 24, 2015).

The adjusted EECRF rider to recover SPS's eligible energy efficiency costs during PY 2016 results in the following cost recovery factors:

EECRF Rate Class	\$/kWh
Residential Service	\$0.000735
Small General Service	\$0.000352
Secondary General Service	\$0.000166
Primary General Service	\$0.000141
Small Municipal and School Service	\$0.000338
Large Municipal Service	\$0.000155
Large School Service	\$0.001495

b) **Good Cause Exception.** SPS requests that the Commission grant a good cause exception under P.U.C. SUBST. R. 25.181(i) which provides that “a utility shall not exceed 15% of a utility’s total program costs” on administration. In 2014, SPS exceeded this cap by 1.32 percent or \$33,911. SPS believes these costs are both reasonable and necessary to comply with the requirements of Rule 25.181 and therefore should be eligible for recovery.

c) **Testimony Supporting the EECRF Rider.** SPS’s Application is supported by the testimony of three SPS witnesses: Michael V. Pascucci, J. Derek Shockley, and Jeffrey L. Comer.

Mr. Pascucci provides an overview of SPS’s filing and requested relief, discusses the calculation of SPS’s demand and energy savings goals under Rule 25.181, quantifies the demand and energy amounts associated with industrial customers who have opted out of SPS’s 2016 energy efficiency programs in accordance with Rule 25.181(w), and provides an explanation of the measurement of the cost-effectiveness and reasonableness of the amounts budgeted for SPS’s energy efficiency programs in PY 2016. Mr. Pascucci also demonstrates that SPS has complied with the administrative cost caps, addresses SPS’s affiliate costs associated with implementing energy efficiency programs, discusses SPS’s allocated EM&V costs, discusses SPS’s request for a good cause exception under Rule 25.181(i), and addresses SPS’s rate case expenses incurred in its 2014 EECRF proceeding.

Mr. Shockley describes the energy efficiency programs that SPS proposes to provide to eligible customers in PY 2016, quantifies the projected costs for those efficiency programs, demonstrates that those costs are reasonable and that the costs and achievements are consistent with previous years' costs and achievements. Mr. Shockley also discusses the bidding and engagement process that SPS undertakes for contracting with energy efficiency service providers ("EESPs"), identifies the EESPs with whom SPS does business, including each EESP that was paid five percent or more of the incentive payments made by SPS in PY 2014, and discusses the barriers to achieving full implementation of energy efficiency programs in PY 2014. He also presents SPS's Amended 2015 Energy Efficiency Plan and Report as an attachment to his testimony.

Mr. Comer describes specific costs included in the calculation of SPS's proposed EECRF rates. He also supports the calculation and rate design of the proposed EECRF, including the allocation of energy efficiency costs among SPS's eligible rate classes. Finally, Mr. Comer sponsors the proposed EECRF rider setting forth the amounts to be charged to each rate class eligible to participate in SPS's energy efficiency programs. A copy of SPS's proposed EECRF rider is attached hereto as *Exhibit A*.

V. NOTICE

To comply with the notice requirements in Rule 25.181(f)(13), SPS intends to provide notice to all parties who participated in SPS's most recently completed base rate case, Docket No. 42004;⁶ to all parties that participated in the case in which SPS's 2015 EECRF was approved, Docket No. 42454; and to the state agency that administers the federal weatherization program, which is the Texas Department of Housing and Community Affairs ("TDHCA"). The form of the notice will provide is set forth in *Exhibit B* of this Application. Pursuant to Rule 25.181(f)(14), SPS will file an affidavit attesting to the notice served upon all parties to Docket Nos. 42004, 42454 and to TDHCA within 14 days of the filing of this application. SPS requests that the Commission find its notice sufficient.

⁶ *Application of Southwestern Public Service Company for Authority to Change Rates and to Reconcile Fuel and Purchased Power Costs for the Period July 1, 2012 through June 30, 2013*, Docket No. 42004, Final Order (December 19, 2014).

IV. PROPOSED SCHEDULE

Rule 25.181(f)(9) provides that, upon a utility's filing of an application to establish or adjust an EECRF, the presiding officer shall set a procedural schedule that will enable the Commission to issue a final order in the proceeding as follows, except where good cause supports a different procedural schedule:

1. Within 90 days after a sufficient application was filed if no hearing is requested within 30 days of the filing of the application; or
2. Within 180 days after a sufficient application was filed, if a timely request for hearing is made. If a hearing is requested, the hearing will be held no earlier than the first working day after the 45th day after a sufficient application is filed.

Consistent with the above provisions, SPS proposes the following schedule for this proceeding:

If Hearing Requested

Notice Completed	May 15, 2015
Proof of Notice	May 15, 2014
Intervention Deadline	June 2, 2014
Request for a Hearing	June 2, 2014

If Hearing Not Requested

Notice Completed	May 15, 2014
Proof of Notice	May 15, 2014
Intervention Deadline	June 2, 2014
Request for Hearing	June 2, 2014
Staff's Recommendation	June 9, 2014
Parties' Proposed Order	June 16, 2014

VII. REQUEST FOR ENTRY OF PROTECTIVE ORDER

In responses to requests for information, SPS may be required to produce highly sensitive or confidential information, the disclosure of which to third parties would either place SPS at a severe competitive disadvantage or cause it to violate contractual confidentiality obligations. Thus, SPS requests that the Commission enter a protective order in the form attached to this Application as *Exhibit C*.

VIII. AUTHORIZED REPRESENTATIVES

SPS's authorized representative in this proceeding is:

Brooke A. Trammell
Xcel Energy
600 S. Tyler St., 24th Floor
Amarillo, TX 79101
(806) 378-2415
(806) 378-2820 facsimile
brooke.a.trammell@xcelenergy.com

SPS's legal representatives in this proceeding are:

Matthew P. Loftus
Xcel Energy Services Inc.
816 Congress Avenue, Suite 1650
Austin, Texas 78701-2471
(512) 478-1327
(512) 478-9232 (fax)
matthew.p.loftus@xcelenergy.com

Carrie Collier-Brown
Winstead PC
401 Congress Avenue, Suite 2100
Austin, Texas 78701
(512) 370-2868
(512) 370-2850 (fax)
ccbrown@winstead.com

General inquiries concerning this filing should be directed to Ms. Trammell at the above-stated address and telephone number. All pleadings, motions, orders, and other documents filed in this proceeding should be served upon Mr. Loftus and Ms. Collier-Brown at the above-stated addresses.

IX. PRAYER

WHEREFORE, premises considered, SPS requests:

- a. that SPS's Application to Adjust its 2016 EECRF rider be deemed complete, sufficient, and in compliance with Rule 25.181(f);
- b. that notice of this filing be considered sufficient and authorized as provided above;

- c. that SPS's Request for a Protective Order be approved;
- d. that SPS's Application be approved and the adjustment of its EECRF rider become effective on January 1, 2016; and
- e. such other relief to which SPS has shown itself entitled.

Respectfully submitted,



WINSTEAD PC

XCEL ENERGY SERVICES INC.

Matthew P. Loftus
State Bar No. 24052189
816 Congress Ave., Suite 1650
Austin, Texas 78701-2471
(512) 478-1327 Telephone
(512) 478-9232 Fax
email: matthew.p.loftus@xcelenergy.com

Carrie Collier-Brown
State Bar No. 24065064
401 Congress Avenue, Suite 2100
Austin, Texas 78701
Office: (512) 370-2868
Facsimile: (512) 370-2850
e-mail: ccbrown@winstead.com

ATTORNEYS FOR SOUTHWESTERN PUBLIC
SERVICE COMPANY

CERTIFICATE OF SERVICE

I certify that on the 1st day of May 2015, a true and correct copy of the foregoing instrument was served on all parties of record by hand delivery, Federal Express, regular first class mail, certified mail, electronic mail, or facsimile transmission.





ELECTRIC TARIFF

ENERGY EFFICIENCY COST RECOVERY FACTOR RIDER

APPLICABILITY: To all Texas retail Customers taking service at a metered Point of Delivery less than 69 kV, and to all non-profit Customers and governmental entities, including educational customers, in addition to all other charges under the applicable rate schedule. Not applicable to Industrial Customers that have timely provided appropriate Identification Notice to the Company, as described in P.U.C. SUBST. R. 25.181(w).

RATE: All estimated or metered kWh is charged the rate applicable to the EECRF rate class, as listed below:

<u>Rate Schedule</u>	<u>\$/kWh</u>
Residential Service	\$ 0.000735 (I)
Small General Service	\$ 0.000352 (I)
Secondary General Service	\$ 0.000166 (R)
Primary General Service ¹	\$ 0.000141 (I)
Small Municipal and School Service	\$ 0.000338 (R)
Large Municipal Service	\$ 0.000155 (R)
Large School Service	\$ 0.001495 (I)

¹ Primary General Service includes Service Agreement Summaries IV-61, IV-99 and IV-199.

Effective January 1, 2016


MANAGER, PRICING AND PLANNING

PROPOSED FORM OF NOTICE

On May 1, 2015, Southwestern Public Service Company (SPS), doing business as Xcel Energy Inc., filed an application with the Public Utility Commission of Texas (Commission) for approval to adjust its current Energy Efficiency Cost Recovery Factor (EECRF) rider as permitted under P.U.C. SUBST. R. 25.181(f), which allows for recovery of the costs of providing energy efficiency programs. The filing has been assigned Docket No. _____. SPS has requested that its proposed EECRF become effective on January 1, 2016.

The filing will affect all of SPS's Texas retail customers receiving service at a metered point of delivery under 69 kilovolts (kV) except those industrial customers that have opted out of energy efficiency programs in accordance with P.U.C. SUBST. R. 25.181(w). It will also affect SPS's Texas non-profit and governmental retail customers, including educational institutions that take service above 69 kV. SPS seeks to adjust its EECRF to recover approximately \$2.85 million of expenses associated with administering energy efficiency programs in Texas in 2016. If SPS's EECRF Application is approved, the amount billed to a residential customer using 1,000 kilowatt-hours (kWh) of electricity per month will result in an increase of approximately \$0.10 per month over the EECRF currently in place. SPS's proposed EECRF rates for 2016 are as follows:

Customer Class	\$/kWh
Residential Service	\$0.000735
Small General Service	\$0.000352
Secondary General Service	\$0.000166
Primary General Service	\$0.000141
Small Municipal and School Service	\$0.000338
Large Municipal Service	\$0.000155
Large School Service	\$0.001495

Persons who wish to intervene or comment upon these proceedings should notify the Commission as soon as possible, as an intervention deadline will be imposed. The intervention deadline in this proceeding will be June 2, 2015. A request to intervene or for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. A request to intervene or for further information should reference Docket No. _____. Further information may also be obtained by calling the Commission at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the Commission at (512) 936-7136. In addition, further information may be obtained by contacting Brooke Trammell at Southwestern Public Service Company, 600 S. Tyler Street, Suite 2400, Amarillo, Texas 79101 or by calling 1-800-895-4999 during normal business hours. A

complete copy of this application is available for inspection at the corporate office of SPS which is located at 600 S. Tyler Street, Suite 2400, Amarillo, Texas 79101.

PROPOSED PROTECTIVE ORDER

DOCKET NO. _____

APPLICATION OF SOUTHWESTERN	§	PUBLIC UTILITY COMMISSION
PUBLIC SERVICE COMPANY TO	§	
ADJUST ITS ENERGY EFFICIENCY	§	
COST RECOVERY FACTOR	§	OF TEXAS

PROTECTIVE ORDER

This Protective Order shall govern the use of all information deemed confidential (Protected Materials) or highly confidential (Highly Sensitive Protected Materials), including information whose confidentiality is currently under dispute, by a party providing information to the Public Utility Commission of Texas (Commission) or to any other party to this proceeding.

It is ORDERED that:

1. **Designation of Protected Materials.** Upon producing or filing a document, including, but not limited to, records on a computer disk or other similar electronic storage medium in this proceeding, the producing party may designate that document, or any portion of it, as confidential pursuant to this Protective Order by typing or stamping on its face "PROTECTED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. ____" (or words to this effect) and consecutively Bates Stamping each page. Protected Materials and Highly Sensitive Protected Materials include the documents so designated, as well as the substance of the information contained in the documents and any description, report, summary, or statement about the substance of the information contained in the documents.
2. **Materials Excluded from Protected Materials Designation.** Protected Materials shall not include any information or document contained in the public files of the Commission or any other federal or state agency, court, or local governmental authority subject to the

Public Information Act.¹ Protected Materials also shall not include documents or information which at the time of, or prior to disclosure in, a proceeding is or was public knowledge, or which becomes public knowledge other than through disclosure in violation of this Protective Order.

3. **Reviewing Party.** For the purposes of this Protective Order, a “Reviewing Party” is any party to this docket.
4. **Procedures for Designation of Protected Materials.** On or before the date the Protected Materials or Highly Sensitive Protected Materials are provided to the Commission, the producing party shall file with the Commission and deliver to each party to the proceeding a written statement, which may be in the form of an objection, indicating: (a) any exemptions to the Public Information Act claimed to apply to the alleged Protected Materials; (b) the reasons supporting the producing party’s claim that the responsive information is exempt from public disclosure under the Public Information Act and subject to treatment as protected materials; and (c) that counsel for the producing party has reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act and merits the Protected Materials designation.
5. **Persons Permitted Access to Protected Materials.** Except as otherwise provided in this Protective Order, a Reviewing Party may access Protected Materials only through its “Reviewing Representatives” who have signed the Protective Order Certification Form (see Attachment A). Reviewing Representatives of a Reviewing Party include its counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by the Reviewing Party and directly engaged in this proceeding. At the request of the PUC Commissioners, copies of Protected Materials may be produced by Commission Staff. The Commissioners and their staff shall be informed of the existence and coverage of this Protective Order and shall observe the restrictions of the Protective Order.

¹ TEX. GOV’T CODE ANN. §§ 552.001-552.353 (Vernon 2004 & Supp. 2013).

6. **Highly Sensitive Protected Material Described.** The term “Highly Sensitive Protected Materials” is a subset of Protected Materials and refers to documents or information that a producing party claims is of such a highly sensitive nature that making copies of such documents or information or providing access to such documents to employees of the Reviewing Party (except as specified herein) would expose a producing party to unreasonable risk of harm. Highly Sensitive Protected Materials include but are not limited to: (a) customer-specific information protected by § 32.101(c) of the Public Utility Regulatory Act;² (b) contractual information pertaining to contracts that specify that their terms are confidential or that are confidential pursuant to an order entered in litigation to which the producing party is a party; (c) market-sensitive fuel price forecasts, wholesale transactions information and/or market-sensitive marketing plans; and (d) business operations or financial information that is commercially sensitive. Documents or information so classified by a producing party shall bear the designation “HIGHLY SENSITIVE PROTECTED MATERIALS PROVIDED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. _____” (or words to this effect) and shall be consecutively Bates Stamped. The provisions of this Protective Order pertaining to Protected Materials also apply to Highly Sensitive Protected Materials, except where this Protective Order provides for additional protections for Highly Sensitive Protected Materials. In particular, the procedures herein for challenging the producing party’s designation of information as Protected Materials also apply to information that a producing party designates as Highly Sensitive Protected Materials.
7. **Restrictions on Copying and Inspection of Highly Sensitive Protected Material.** Except as expressly provided herein, only one copy may be made of any Highly Sensitive Protected Materials except that additional copies may be made in order to have sufficient copies for introduction of the material into the evidentiary record if the material is to be offered for admission into the record. A record of any copies that are made of Highly Sensitive Protected Material shall be kept and a copy of the record shall be sent to the

² Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2013) (PURA).

producing party at the time the copy or copies are made. The record shall include information on the location and the person in possession of each copy. Highly Sensitive Protected Material shall be made available for inspection only at the location or locations provided by the producing party, except as specified by Paragraph 9. Limited notes may be made of Highly Sensitive Protected Materials, and such notes shall themselves be treated as Highly Sensitive Protected Materials unless such notes are limited to a description of the document and a general characterization of its subject matter in a manner that does not state any substantive information contained in the document.

8. **Restricting Persons Who May Have Access to Highly Sensitive Protected Material.**

With the exception of Commission Staff, the Office of Public Utility Counsel (OPC), and the Office of the Attorney General (OAG) when the OAG is representing a party to the proceeding, and except as provided herein, the Reviewing Representatives for the purpose of access to Highly Sensitive Protected Materials may be persons who are: (1) outside counsel for the Reviewing Party; (2) outside consultants for the Reviewing Party working under the direction of Reviewing Party's counsel; or (3) employees of the Reviewing Party or its members working with and under the direction of Reviewing Party's counsel who have been authorized by the producing party or by the presiding officer to review Highly Sensitive Protected Materials. The Reviewing Party shall limit the number of Reviewing Representatives that review each Highly Sensitive Protected document to the minimum number of persons necessary. The Reviewing Party is under a good faith obligation to limit access to each portion of any Highly Sensitive Protected Materials to two Reviewing Representatives (other than outside counsel) whenever possible. Reviewing Representatives for Commission Staff, OPC, and OAG, for the purpose of access to Highly Sensitive Protected Materials, shall consist of their respective counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by them and directly engaged in these proceedings.

9. **Copies Provided of Highly Sensitive Protected Material.** A producing party shall provide one copy of Highly Sensitive Protected Materials specifically requested by the Reviewing Party to the person designated by the Reviewing Party who must be a person authorized to review Highly Sensitive Protected Material under Paragraph 8. Representatives of the Reviewing Party who are authorized to view Highly Sensitive Protected Material may review the copy of Highly Sensitive Protected Materials at the office of the Reviewing Party's representative designated to receive the information. Any Highly Sensitive Protected Materials provided to a Reviewing Party may not be copied except as provided in Paragraph 7. The restrictions contained herein do not apply to Commission Staff, OPC, and the OAG when the OAG is representing a party to the proceeding.
10. **Procedures in Paragraphs 10-14 Apply to Commission Staff, OPC, and the OAG and Control in the Event of Conflict.** The procedures in Paragraphs 10 through 14 apply to responses to requests for documents or information that the producing party designates as Highly Sensitive Protected Materials and provides to Commission Staff, OPC, and the OAG in recognition of their purely public functions. To the extent the requirements of Paragraphs 10 through 14 conflicts with any requirements contained in other paragraphs of this Protective Order, the requirements of these Paragraphs shall control.
11. **Copy of Highly Sensitive Protected Material to be Provided to Commission Staff, OPC and the OAG.** When, in response to a request for information by a Reviewing Party, the producing party makes available for review documents or information claimed to be Highly Sensitive Protected Materials, the producing party shall also deliver one copy of the Highly Sensitive Protected Materials to the Commission Staff, OPC, and the OAG (if the OAG is representing a party) in Austin, Texas. Provided however, that in the event such Highly Sensitive Protected Materials are voluminous, the materials will be made available for review by Commission Staff, OPC, and the OAG (if the OAG is representing a party) at the designated office in Austin, Texas. The Commission Staff,

OPC and the OAG (if the OAG is representing a party) may request such copies as are necessary of such voluminous material under the copying procedures specified herein.

12. **Delivery of the Copy of Highly Sensitive Protected Material to Commission Staff and Outside Consultants.** The Commission Staff, OPC, and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by them to the appropriate members of their staff for review, provided such staff members first sign the certification specified by Paragraph 15. After obtaining the agreement of the producing party, Commission Staff, OPC, and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by it to the agreed, appropriate members of their outside consultants for review, provided such outside consultants first sign the certification in Attachment A.
13. **Restriction on Copying by Commission Staff, OPC and the OAG.** Except as allowed by Paragraph 7, Commission Staff, OPC and the OAG may not make additional copies of the Highly Sensitive Protected Materials furnished to them unless the producing party agrees in writing otherwise, or, upon a showing of good cause, the presiding officer directs otherwise. Commission Staff, OPC, and the OAG may make limited notes of Highly Sensitive Protected Materials furnished to them, and all such handwritten notes will be treated as Highly Sensitive Protected Materials as are the materials from which the notes are taken.
14. **Public Information Requests.** In the event of a request for any of the Highly Sensitive Protected Materials under the Public Information Act, an authorized representative of the Commission, OPC, or the OAG may furnish a copy of the requested Highly Sensitive Protected Materials to the Open Records Division at the OAG together with a copy of this Protective Order after notifying the producing party that such documents are being furnished to the OAG. Such notification may be provided simultaneously with the delivery of the Highly Sensitive Protected Materials to the OAG.

15. **Required Certification.** Each person who inspects the Protected Materials shall, before such inspection, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and, unless I am an employee of the Commission or OPC, shall be used only for the purpose of the proceeding in Docket No. _____. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated herein shall not apply.

In addition, Reviewing Representatives who are permitted access to Highly Sensitive Protected Material under the terms of this Protective Order shall, before inspection of such material, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

A copy of each signed certification shall be provided by the Reviewing Party to Counsel for the producing party and served upon all parties of record.

16. **Disclosures between Reviewing Representatives and Continuation of Disclosure Restrictions after a Person is no Longer Engaged in the Proceeding.** Any Reviewing Representative may disclose Protected Materials, other than Highly Sensitive Protected Materials, to any other person who is a Reviewing Representative provided that, if the person to whom disclosure is to be made has not executed and provided for delivery of a signed certification to the party asserting confidentiality, that certification shall be

executed prior to any disclosure. A Reviewing Representative may disclose Highly Sensitive Protected Material to other Reviewing Representatives who are permitted access to such material and have executed the additional certification required for persons who receive access to Highly Sensitive Protected Material. In the event that any Reviewing Representative to whom Protected Materials are disclosed ceases to be engaged in these proceedings, access to Protected Materials by that person shall be terminated and all notes, memoranda, or other information derived from the protected material shall either be destroyed or given to another Reviewing Representative of that party who is authorized pursuant to this Protective Order to receive the protected materials. Any person who has agreed to the foregoing certification shall continue to be bound by the provisions of this Protective Order so long as it is in effect, even if no longer engaged in these proceedings.

17. **Producing Party to Provide One Copy of Certain Protected Material and Procedures for Making Additional Copies of Such Materials.** Except for Highly Sensitive Protected Materials, which shall be provided to the Reviewing Parties pursuant to Paragraphs 9, and voluminous Protected Materials, the producing party shall provide a Reviewing Party one copy of the Protected Materials upon receipt of the signed certification described in Paragraph 15. Except for Highly Sensitive Protected Materials, a Reviewing Party may make further copies of Protected Materials for use in this proceeding pursuant to this Protective Order, but a record shall be maintained as to the documents reproduced and the number of copies made, and upon request the Reviewing Party shall provide the party asserting confidentiality with a copy of that record.
18. **Procedures Regarding Voluminous Protected Materials.** P.U.C. PROC. R. 22.144(h) will govern production of voluminous Protected Materials. Voluminous Protected Materials will be made available in the producing party's voluminous room, in Austin, Texas, or at a mutually agreed upon location, Monday through Friday, 9:00 a.m. to 5:00 p.m. (except on state or Federal holidays), and at other mutually convenient times upon reasonable request.

19. **Reviewing Period Defined.** The Protected Materials may be reviewed only during the Reviewing Period, which shall commence upon entry of this Protective Order and continue until the expiration of the Commission's plenary jurisdiction. The Reviewing Period shall reopen if the Commission regains jurisdiction due to a remand as provided by law. Protected materials that are admitted into the evidentiary record or accompanying the evidentiary record as offers of proof may be reviewed throughout the pendency of this proceeding and any appeals.
20. **Procedures for Making Copies of Voluminous Protected Materials.** Other than Highly Sensitive Protected Materials, Reviewing Parties may take notes regarding the information contained in voluminous Protected Materials made available for inspection or they may make photographic, mechanical or electronic copies of the Protected Materials, subject to the conditions in this Protective Order; provided, however, that before photographic, mechanical or electronic copies may be made, the Reviewing Party seeking photographic, mechanical or electronic copies must provide written confirmation of the receipt of copies listed on Attachment B of this Protective Order identifying each piece of Protected Materials or portions thereof the Reviewing Party will need.
21. **Protected Materials to be Used Solely for the Purposes of These Proceedings.** All Protected Materials shall be made available to the Reviewing Parties and their Reviewing Representatives solely for the purposes of these proceedings. Access to the Protected Materials may not be used in the furtherance of any other purpose, including, without limitation: (a) any other pending or potential proceeding involving any claim, complaint, or other grievance of whatever nature, except appellate review proceedings that may arise from or be subject to these proceedings; or (b) any business or competitive endeavor of whatever nature. Because of their statutory regulatory obligations, these restrictions do not apply to Commission Staff or OPC.
22. **Procedures for Confidential Treatment of Protected Materials and Information Derived from Those Materials.** Protected Materials, as well as a Reviewing Party's notes, memoranda, or other information regarding or derived from the Protected

Materials are to be treated confidentially by the Reviewing Party and shall not be disclosed or used by the Reviewing Party except as permitted and provided in this Protective Order. Information derived from or describing the Protected Materials shall be maintained in a secure place and shall not be placed in the public or general files of the Reviewing Party except in accordance with the provisions of this Protective Order. A Reviewing Party must take all reasonable precautions to insure that the Protected Materials including notes and analyses made from Protected Materials that disclose Protected Materials are not viewed or taken by any person other than a Reviewing Representative of a Reviewing Party.

23. **Procedures for Submission of Protected Materials.** If a Reviewing Party tenders for filing any Protected Materials, including Highly Sensitive Protected Materials, or any written testimony, exhibit, brief, motion or other type of pleading or other submission at the Commission or before any other judicial body that quotes from Protected Materials or discloses the content of Protected Materials, the confidential portion of such submission shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they contain Protected Material or Highly Sensitive Protected Material and are sealed pursuant to this Protective Order. If filed at the Commission, such documents shall be marked "PROTECTED MATERIAL" and shall be filed under seal with the presiding officer and served under seal to the counsel of record for the Reviewing Parties. The presiding officer may subsequently, on his/her own motion or on motion of a party, issue a ruling respecting whether or not the inclusion, incorporation or reference to Protected Materials is such that such submission should remain under seal. If filing before a judicial body, the filing party: (a) shall notify the party which provided the information within sufficient time so that the producing party may seek a temporary sealing order; and (b) shall otherwise follow the procedures in Rule 76a, Texas Rules of Civil Procedure.
24. **Maintenance of Protected Status of Materials during Pendency of Appeal of Order Holding Materials are not Protected Materials.** In the event that the presiding officer

at any time in the course of this proceeding finds that all or part of the Protected Materials are not confidential or proprietary, by finding, for example, that such materials have entered the public domain or materials claimed to be Highly Sensitive Protected Materials are only Protected Materials, those materials shall nevertheless be subject to the protection afforded by this Protective Order for three (3) full working days, unless otherwise ordered, from the date the party asserting confidentiality receives notice of the presiding officer's order. Such notification will be by written communication. This provision establishes a deadline for appeal of a presiding officer's order to the Commission. In the event an appeal to the Commissioners is filed within those three (3) working days from notice, the Protected Materials shall be afforded the confidential treatment and status provided in this Protective Order during the pendency of such appeal. Neither the party asserting confidentiality nor any Reviewing Party waives its right to seek additional administrative or judicial remedies after the Commission's denial of any appeal.

25. **Notice of Intent to Use Protected Materials or Change Materials Designation.** Parties intending to use Protected Materials shall notify the other parties prior to offering them into evidence or otherwise disclosing such information into the record of the proceeding. During the pendency of Docket No. _____ at the Commission, in the event that a Reviewing Party wishes to disclose Protected Materials to any person to whom disclosure is not authorized by this Protective Order, or wishes to have changed the designation of certain information or material as Protected Materials by alleging, for example, that such information or material has entered the public domain, such Reviewing Party shall first file and serve on all parties written notice of such proposed disclosure or request for change in designation, identifying with particularity each of such Protected Materials. A Reviewing Party shall at any time be able to file a written motion to challenge the designation of information as Protected Materials.
26. **Procedures to Contest Disclosure or Change in Designation.** In the event that the party asserting confidentiality wishes to contest a proposed disclosure or request for

change in designation, the party asserting confidentiality shall file with the appropriate presiding officer its objection to a proposal, with supporting affidavits, if any, within five (5) working days after receiving such notice of proposed disclosure or change in designation. Failure of the party asserting confidentiality to file such an objection within this period shall be deemed a waiver of objection to the proposed disclosure or request for change in designation. Within five (5) working days after the party asserting confidentiality files its objection and supporting materials, the party challenging confidentiality may respond. Any such response shall include a statement by counsel for the party challenging such confidentiality that he or she has reviewed all portions of the materials in dispute and, without disclosing the Protected Materials, a statement as to why the Protected Materials should not be held to be confidential under current legal standards, or that the party asserting confidentiality for some reason did not allow such counsel to review such materials. If either party wishes to submit the material in question for in camera inspection, it shall do so no later than five (5) working days after the party challenging confidentiality has made its written filing.

27. **Procedures for Presiding Officer Determination Regarding Proposed Disclosure or Change in Designation.** If the party asserting confidentiality files an objection, the appropriate presiding officer will determine whether the proposed disclosure or change in designation is appropriate. Upon the request of either the producing or Reviewing Party or upon the presiding officer's own initiative, the presiding officer may conduct a prehearing conference. The burden is on the party asserting confidentiality to show that such proposed disclosure or change in designation should not be made. If the presiding officer determines that such proposed disclosure or change in designation should be made, disclosure shall not take place earlier than three (3) full working days after such determination unless otherwise ordered. No party waives any right to seek additional administrative or judicial remedies concerning such presiding officer's ruling.
28. **Maintenance of Protected Status during Periods Specified for Challenging Various Orders.** Any party electing to challenge, in the courts of this state, a Commission or

presiding officer determination allowing disclosure or a change in designation shall have a period of ten (10) days from: (a) the date of an unfavorable Commission order; or (b) if the Commission does not rule on an appeal of an interim order, the date an appeal of an interim order to the Commission is overruled by operation of law, to obtain a favorable ruling in state district court. Any party challenging a state district court determination allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from a state appeals court. Finally, any party challenging a determination of a state appeals court allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from the state supreme court, or other appellate court. All Protected Materials shall be afforded the confidential treatment and status provided for in this Protective Order during the periods for challenging the various orders referenced in this paragraph. For purposes of this paragraph, a favorable ruling of a state district court, state appeals court, Supreme Court or other appellate court includes any order extending the deadlines in this paragraph.

29. **Other Grounds for Objection to Use of Protected Materials Remain Applicable.** Nothing in this Protective Order shall be construed as precluding any party from objecting to the use of Protected Materials on grounds other than confidentiality, including the lack of required relevance. Nothing in this Protective Order constitutes a waiver of the right to argue for more disclosure, provided, however, that unless the Commission or a court orders such additional disclosure, all parties will abide by the restrictions imposed by the Protective Order.
30. **Protection of Materials from Unauthorized Disclosure.** All notices, applications, responses or other correspondence shall be made in a manner which protects Protected Materials from unauthorized disclosure.
31. **Return of Copies of Protected Materials and Destruction of Information Derived from Protected Materials.** Following the conclusion of these proceedings, each Reviewing Party must, no later than thirty (30) days following receipt of the notice

described below, return to the party asserting confidentiality all copies of the Protected Materials provided by that party pursuant to this Protective Order and all copies reproduced by a Reviewing Party, and counsel for each Reviewing Party must provide to the party asserting confidentiality a letter by counsel that, to the best of his or her knowledge, information, and belief, all copies of notes, memoranda, and other documents regarding or derived from the Protected Materials (including copies of Protected Materials) that have not been so returned, if any, have been destroyed, other than notes, memoranda, or other documents which contain information in a form which, if made public, would not cause disclosure of the substance of Protected Materials. As used in this Protective Order, “conclusion of these proceedings” refers to the exhaustion of available appeals, or the running of the time for the making of such appeals, as provided by applicable law. If, following any appeal, the Commission conducts a remand proceeding, then the “conclusion of these proceedings” is extended by the remand to the exhaustion of available appeals of the remand, or the running of the time for making such appeals of the remand, as provided by applicable law. Promptly following the conclusion of these proceedings, counsel for the party asserting confidentiality will send a written notice to all other parties, reminding them of their obligations under this Paragraph. Nothing in this Paragraph shall prohibit counsel for each Reviewing Party from retaining two (2) copies of any filed testimony, brief, application for rehearing, hearing exhibit or other pleading which refers to Protected Materials provided that any such Protected Materials retained by counsel shall remain subject to the provisions of this Protective Order.

32. **Applicability of Other Law.** This Protective Order is subject to the requirements of the Public Information Act, the Open Meetings Act,³ the Texas Securities Act⁴ and any other applicable law, provided that parties subject to those acts will notify the party asserting confidentiality, if possible under those acts, prior to disclosure pursuant to those acts. Such notice shall not be required where the Protected Materials are sought by

³ TEX. GOV'T CODE ANN. § 551.001-551.146 (Vernon 2004 & Supp. 2013).

governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

33. **Procedures for Release of Information under Order.** If required by order of a governmental or judicial body, the Reviewing Party may release to such body the confidential information required by such order; provided, however, that: (a) the Reviewing Party shall notify the producing party of the order requiring the release of such information within five (5) calendar days of the date the Reviewing Party has notice of the order; (b) the Reviewing Party shall notify the producing party at least five (5) calendar days in advance of the release of the information to allow the producing party to contest any release of the confidential information; and (c) the Reviewing Party shall use its best efforts to prevent such materials from being disclosed to the public. The terms of this Protective Order do not preclude the Reviewing Party from complying with any valid and enforceable order of a state or federal court with competent jurisdiction specifically requiring disclosure of Protected Materials earlier than contemplated herein. The notice specified in this section shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.
34. **Best Efforts Defined.** The term “best efforts” as used in the preceding paragraph requires that the Reviewing Party attempt to ensure that disclosure is not made unless such disclosure is pursuant to a final order of a Texas governmental or Texas judicial body, the written opinion of the Texas Attorney General sought in compliance with the Public Information Act, or the request of governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials. The

⁴TEX. REV. CIV. STAT. ANN. arts. 581-1 to 581-43 (Vernon 1964 & Supp. 2013).

Reviewing Party is not required to delay compliance with a lawful order to disclose such information but is simply required to timely notify the party asserting confidentiality, or its counsel, that it has received a challenge to the confidentiality of the information and that the Reviewing Party will either proceed under the provisions of §552.301 of the Public Information Act, or intends to comply with the final governmental or court order. Provided, however, that no notice is required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

35. **Notify Defined.** “Notify” for purposes of Paragraphs 32, 33, and 34 means written notice to the party asserting confidentiality at least five (5) calendar days prior to release; including when a Reviewing Party receives a request under the Public Information Act. However, the Commission, OAG, or OPC may provide a copy of Protected Materials to the Open Records Division of the OAG as provided herein.
36. **Requests for Non-Disclosure.** If the producing party asserts that the requested information should not be disclosed at all, or should not be disclosed to certain parties under the protection afforded by this Protective Order, the producing party shall tender the information for in camera review to the presiding officer within ten (10) calendar days of the request. At the same time, the producing party shall file and serve on all parties its argument, including any supporting affidavits, in support of its position of non-disclosure. The burden is on the producing party to establish that the material should not be disclosed. The producing party shall serve a copy of the information under the classification of Highly Sensitive Protected Material to all parties requesting the information that the producing party has not alleged should be prohibited from reviewing the information.

Parties wishing to respond to the producing party’s argument for non-disclosure shall do so within five working days. Responding parties should explain why the information

should be disclosed to them, including why disclosure is necessary for a fair adjudication of the case if the material is determined to constitute a trade secret. If the presiding officer finds that the information should be disclosed as Protected Material under the terms of this Protective Order, the presiding officer shall stay the order of disclosure for such period of time as the presiding officer deems necessary to allow the producing party to appeal the ruling to the Commission.

37. **Sanctions Available for Abuse of Designation.** If the presiding officer finds that a producing party unreasonably designated material as Protected Material or as Highly Sensitive Protected Material, or unreasonably attempted to prevent disclosure pursuant to Paragraph 36, the presiding officer may sanction the producing party pursuant to P.U.C. PROC. R. 22.161.
38. **Modification of Protective Order.** Each party shall have the right to seek changes in this Protective Order as appropriate from the presiding officer.
39. **Breach of Protective Order.** In the event of a breach of the provisions of this Protective Order, the producing party, if it sustains its burden of proof required to establish the right to injunctive relief, shall be entitled to an injunction against such breach without any requirements to post bond as a condition of such relief. The producing party shall not be relieved of proof of any element required to establish the right to injunctive relief. In addition to injunctive relief, the producing party shall be entitled to pursue any other form of relief to which it is entitled.

ATTACHMENT A

Protective Order Certification

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket and that I have received a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and, unless I am an employee of the Commission or OPC, shall be used only for the purpose of the proceeding in Docket No. _____. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated here shall not apply.

Signature

Party Represented

Printed Name

Date

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

Signature

Party Represented

Printed Name

Date

ATTACHMENT B

I request to view/copy the following documents:

Document Requested	# of Copies	Non-Confidential	Protected Materials and/or Highly Sensitive Protected Materials

Signature

Party Represented

Printed Name

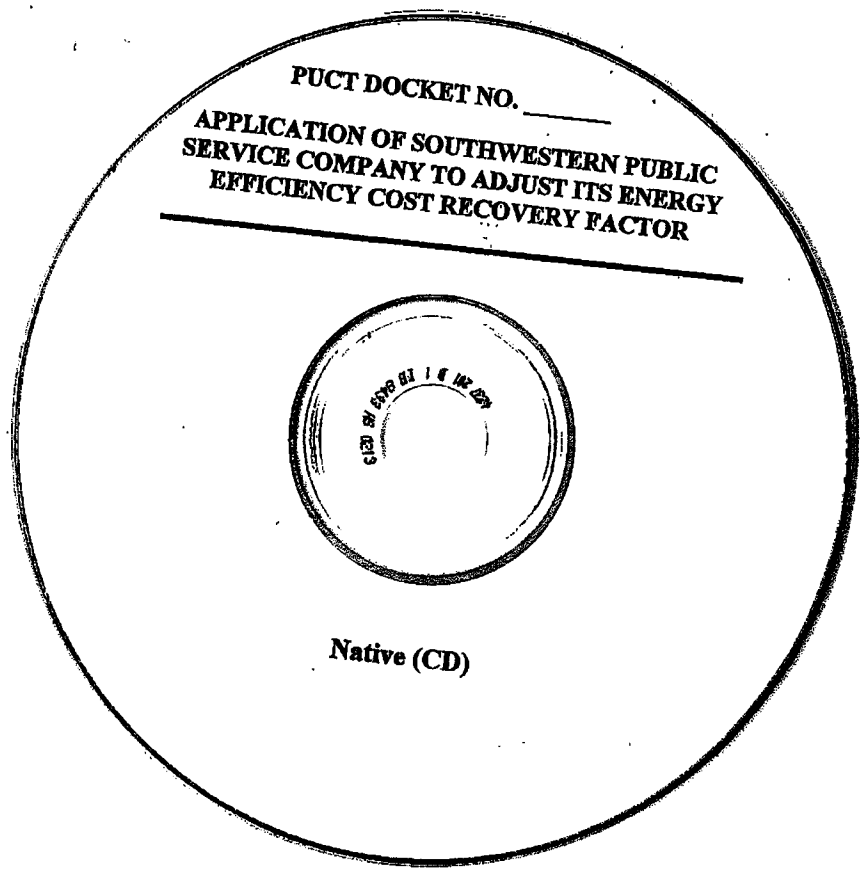
Date

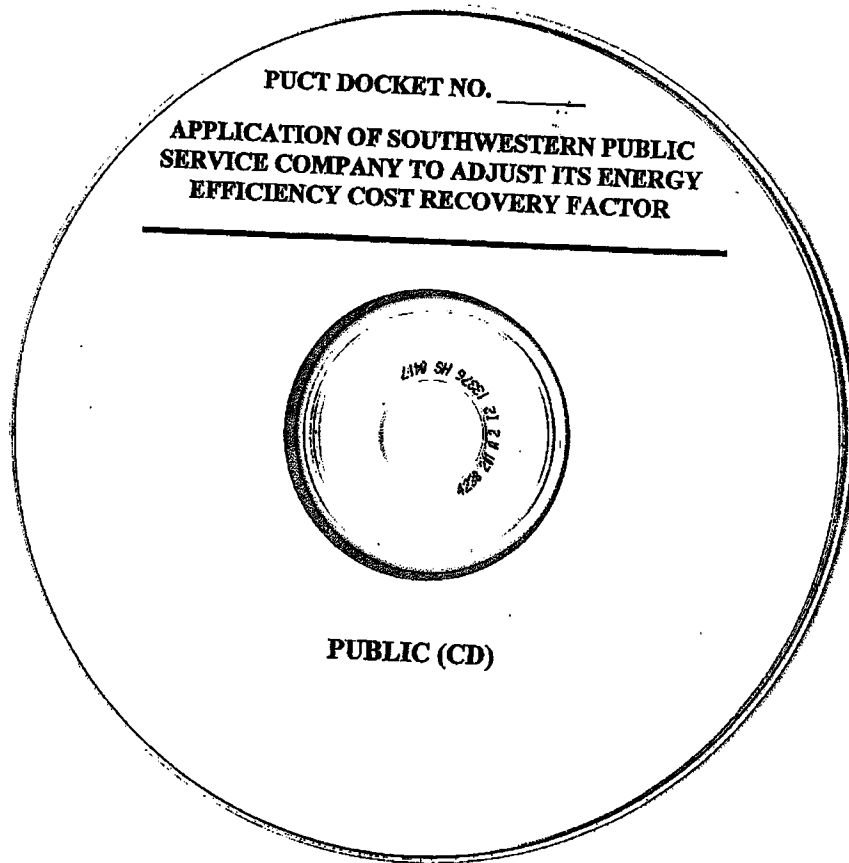
Certificate of Service

I certify that on May 1st, 2015, this instrument was filed with the Public Utility Commission of Texas, a true and correct copy of it was served by hand delivery on the Staff of the Public Utility Commission of Texas and the Office of Public Utility Counsel.



Carrie Collier-Brown





DOCKET NO. **44698**

APPLICATION OF SOUTHWESTERN §
PUBLIC SERVICE COMPANY TO § PUBLIC UTILITY COMMISSION
ADJUST ITS ENERGY EFFICIENCY §
COST RECOVERY FACTOR § OF TEXAS

DIRECT TESTIMONY
of
MICHAEL V. PASCUCCI

on behalf of

SOUTHWESTERN PUBLIC SERVICE COMPANY

(filename: PascucciEECRFDirect.doc)

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GLOSSARY OF ACRONYMS AND DEFINED TERMS

<u>Acronym/Defined Term</u>	<u>Meaning</u>
Commission	Public Utility Commission of Texas
DSM	Demand-Side Management
EECRF	Energy Efficiency Cost Recovery Factor
EEPR	Energy Efficiency Plan and Report
EM&V	Evaluation, Measurement, and Verification
EUL	Estimated Useful Life
kW	Kilowatt
kWh	Kilowatt-hour
L-I	Low-Income
M&V	Measurement and Verification
MTP	Market Transformation Program
MW	Megawatt
MWh	Megawatt-hour
PURA	Public Utility Regulatory Act
PY	Program Year
R&D	Research and Development
Rule 25.181	P.U.C. SUBST. R. 25.181
SIR	Savings-to-Investment Ratio
SOP	Standard Offer Program
SPS	Southwestern Public Service Company, a New Mexico corporation
Xcel Energy	Xcel Energy Inc.
XES	Xcel Energy Services Inc.

LIST OF ATTACHMENTS

<u>Attachment</u>	<u>Description</u>
MVP-1	Calculation of SPS's 2016 Goal with Line Loss Details (Filename: Attachment MVP-1.xls)
MVP-2	Calculation of Net Benefits and Cost Effectiveness for PY 2014 (Filename: Attachment MVP-2.xls)
MVP-3	Service Agreement between SPS and XES (Filename: Attachment MVP-3.pdf)
MVP-4	Invoices and Receipts of Non-Labor Affiliate Expenses (Filename: Attachment MVP-4.xls)
MVP-5	Summary of Rate Case Expenses and Adjustments from Docket No. 42454 (Filename: Attachment MVP-5.pdf)
MVP-6	Affidavit of Stephen J. Davis (Filename: Attachment MVP-6.pdf)
MVP-7	Workpapers of Michael V. Pascucci (Filename: Attachment MVP-7.xls)

**DIRECT TESTIMONY
OF
MICHAEL V. PASCUCCI**

1 **I. WITNESS IDENTIFICATION AND QUALIFICATIONS**

2 **Q. Please state your name and business address.**

3 A. My name is Michael V. Pascucci. My business address is 1800 Larimer St.,
4 Denver, Colorado 80202.

5 **Q. On whose behalf are you testifying in this proceeding?**

6 A. I am filing testimony on behalf of Southwestern Public Service Company, a New
7 Mexico corporation ("SPS") and wholly-owned electric utility subsidiary of Xcel
8 Energy Inc. ("Xcel Energy"). Xcel Energy is a registered holding company that
9 owns several electric and natural gas utility operating companies, a regulated
10 natural gas pipeline company, and transmission development companies.¹

11 **Q. By whom are you employed and in what position?**

12 A. I am employed by Xcel Energy Services Inc. ("XES"), the service company
13 subsidiary of Xcel Energy, as a Senior Regulatory Analyst in the Demand-Side
14 Management ("DSM") Regulatory Strategy & Planning group.

15 **Q. Please briefly outline your responsibilities as a Senior Regulatory Analyst.**

16 A. As a Senior Regulatory Analyst in the DSM Regulatory Strategy & Planning
17 group within the Marketing Department, my responsibilities are to: ensure that

¹ Xcel Energy is the parent company of four wholly-owned electric utility operating companies: Northern States Power Company, a Minnesota corporation; Northern States Power Company, a Wisconsin corporation; Public Service Company of Colorado, a Colorado corporation; and SPS (collectively, "Operating Companies"; individually, "Operating Company"). Xcel Energy's natural gas pipeline subsidiary is WestGas InterState, Inc. Xcel Energy also has two transmission-only operating companies, Xcel Energy Southwest Transmission Company, LLC and Xcel Energy Transmission Development Company, LLC, both of which are regulated by the Federal Energy Regulatory Commission ("FERC").

1 Xcel Energy's energy efficiency and demand response programs in Texas and
2 New Mexico adhere to regulatory requirements and policies; track and report on
3 energy efficiency achievements and financial operations for SPS; prepare DSM
4 regulatory reports and filings; and analyze the cost-effectiveness of energy
5 efficiency and load management programs and portfolios for SPS. I am also
6 responsible for ensuring that proper measurement and verification ("M&V") is
7 being conducted for all programs.

8 **Q. Please describe your educational background.**

9 A. I graduated from McDaniel College with Bachelors of Arts in Economics,
10 Political Science, and Business Administration in 2007 and from the Johns
11 Hopkins University's Krieger School of Arts and Sciences with a Master's degree
12 in Government in 2013.

13 **Q. Please describe your professional experience.**

14 A. I began my career as an Energy Analyst with the Maryland Public Service
15 Commission's technical staff in 2010 and was responsible for reviewing the
16 reporting of DSM portfolios for regulated utilities. In 2011, I was promoted to the
17 position of Regulatory Economist II with the Maryland Public Service
18 Commission responsible for reviewing utility reporting on DSM portfolios as well
19 as reviewing environmental, legal, and regulatory changes impacting resource
20 planning functions in Maryland. In 2013, I joined XES as a Senior Regulatory
21 Analyst.

1 **Q. Please describe your experience with SPS's energy efficiency programs and**
2 **previous Energy Efficiency Cost Recovery Factor ("EECRF") filings.**

3 **A. I have been intimately involved with SPS's past EECRF filings. In particular, I**
4 **have worked on the calculation of SPS's demand and energy goals, analysis of the**
5 **success of SPS's energy efficiency programs, reconciliation of SPS's**
6 **expenditures, planning for SPS's budgets, and overall compilation of SPS's**
7 **Energy Efficiency Plan and Report and EECRF filings.**

1 ASSIGNMENT, OVERVIEW, AND SUMMARY OF RECOMMENDATIONS

2 **Q. What is your assignment in this proceeding?**

3 A. As the overview witness for this docket, I introduce SPS's other witnesses, J.
4 Derek Shockley and Jeffrey L. Comer, and I explain the scope of their testimony.
5 I also describe generally Section 39.905 of the Public Utility Regulatory Act
6 ("PURA"), the statute requiring Texas utilities to reduce demand and energy
7 consumption by offering energy efficiency programs to eligible customer classes,²
8 and provide an overview of P.U.C. SUBST. R. 25.181 ("Rule 25.181"), the
9 Commission rule implementing the statutory energy efficiency mandate. In
10 addition, I:

- 11 (1) discuss the relief sought by SPS in this proceeding and describe the
12 specific costs to be included in SPS's Energy Efficiency Cost
13 Recovery Factor ("EECRF"), as authorized by Rule 25.181;
14
- 15 (2) present and discuss the calculation of the demand and energy
16 efficiency goals that SPS seeks to achieve in Program Year ("PY")
17 2016;
18
- 19 (3) quantify the demand and energy amounts associated with industrial
20 customers who have opted out of SPS's 2016 energy efficiency
21 programs in accordance with Rule 25.181(w);
22
- 23 (4) explain that the costs that SPS seeks to recover through the EECRF
24 are reasonable and consistent with Rule 25.181;
25
- 26 (5) explain that SPS's affiliate expenses incurred from XES are
27 reasonable and appropriate for recovery under Section 36.058 of
28 PURA;
29
- 30 (6) discuss SPS's request for a good cause exception, as authorized
31 under Rule 25.181(e)(2), related to the administrative cost caps in
32 Rule 25.181(i);

² TEX. UTILS. CODE ANN. § 39.905 (2008 and Vernon Supp. 2014).

- 1
2 (7) discuss SPS's Low-Income ("L-I") program expenditures pursuant
3 to Rule 25.181(r);
4
5 (8) discuss SPS's Evaluation, Measurement, and Verification
6 ("EM&V") costs;
7
8 (9) explain that the EM&V costs incurred by SPS for PY 2012 and
9 2013 were reasonable and necessary; and
10
11 (10) address SPS's rate case expenses incurred in its 2014 EECRF
12 proceeding (Docket No. 42454).
13

14 **Q. What does Mr. Shockley discuss in his testimony?**

15 A. Mr. Shockley describes the energy efficiency programs that SPS will offer in PY
16 2016 and the costs of those programs. He also sponsors the 2015 Amended
17 Energy Efficiency Plan and Report ("EEPR") filed by SPS. In addition, Mr.
18 Shockley addresses the requirements in Rule 25.181(f)(10) and (f)(11), to the
19 extent they are applicable to Mr. Shockley's testimony.

20 **Q. What topics does Mr. Comer discuss in his testimony?**

21 A. Mr. Comer supports the allocation of costs among rate classes eligible to
22 participate in the energy efficiency programs whose costs are recovered through
23 the EECRF; supports the forecast of billing determinants in PY 2016 and the
24 proposed EECRF rate design; discusses SPS's compliance with the customer cost
25 caps imposed by Rule 25.181(f)(7); sponsors the EECRF tariff rider for PY 2016;
26 and discusses SPS's over-recovery of EECRF revenues for PY 2014.

1 **Q. What are your recommendations in this testimony?**

2 **A. I recommend that the Commission find that for PY 2016:**

- 3 (1) the programs proposed by SPS are cost-effective;
4
5 (2) a good cause exception should be granted for the costs of
6 administration that exceeded the cap established in Rule 25.181(i);
7
8 (3) the affiliate costs are reasonable as set forth under PURA § 36.058;
9
10 (3) the research and development costs ("R&D") are lower than the
11 caps set forth in Rule 25.181(i);
12
13 (4) the incentives forecasted to be paid are lower than the cap in Rule
14 25.181(g);
15
16 (5) as a result of the plan, SPS is expected to achieve the required
17 demand and energy savings reductions; and
18
19 (6) the rate case expenses incurred by SPS in Docket No. 42454 were
20 reasonable and necessary.

21
22 Based on those findings, I recommend that the Commission allow SPS to
23 implement an EECRF rider sufficient to recover \$2,845,862 during PY 2016.
24 That amount includes: (1) the program incentive and administrative costs; and (2)
25 an offset of \$544,201 by which SPS over-recovered its energy efficiency costs in
26 PY 2014 (including rate case expenses incurred in Docket No. 42454).

1 **II. SUMMARY OF STATUTORY AND RULE-BASED ENERGY**
2 **EFFICIENCY REQUIREMENTS**

3 **Q. Please provide a brief summary of the energy efficiency requirements in**
4 **PURA § 39.905.**

5 A. PURA § 39.905 requires electric utilities in Texas to offer and administer energy
6 efficiency incentive programs in a market-neutral, non-discriminatory manner.
7 To that end, each utility must provide, through market based Standard Offer
8 Programs (“SOP”), targeted Market-Transformation Programs (“MTP”), or self-
9 delivered programs, incentives sufficient for:

10 retail electric providers and competitive energy service providers
11 to acquire additional cost-effective energy efficiency, subject to
12 cost ceilings established by the commission, for the utility’s
13 residential and commercial customers, equivalent to:

14 (A) not less than:

- 15
16 (i) 30 percent of the electric utility’s annual growth in
17 demand of residential and commercial customers by
18 December 31 of each year beginning with the 2013
19 calendar year; and
20 (ii) the amount of energy efficiency to be acquired for
21 the utility’s residential and commercial customers
22 for the most recent preceding year[.]³
23

24 The Legislature further directed the Commission to adopt rules and procedures to
25 ensure that utilities achieve the goals set forth in PURA § 39.905, including:

- 26 • establishing an EECRF to ensure timely and reasonable cost recovery for
27 utility energy efficiency expenditures;
28 • establishing an incentive under PURA § 36.204 to reward utilities that
29 exceed the minimum energy efficiency goals set forth in PURA § 39.905;

³ PURA § 39.905(a)(3)

- 1 • ensuring that the costs associated with energy efficiency programs and any
2 shareholder bonus awarded for exceptional performance are borne by the
3 customer classes that receive the services under the program; and
- 4 • ensuring that energy efficiency programs are evaluated, measured, and
5 verified using a framework established by the Commission that promotes
6 effective program design and consistent and streamlined reporting.

7 **Q. Does PURA § 39.905 apply to SPS?**

8 A. Yes. Although Chapter 39 of PURA does not apply to SPS for the most part, a
9 few sections of that chapter have been made applicable to SPS through PURA §
10 39.402, which applies specifically to SPS. PURA § 39.402 expressly requires
11 SPS to comply with PURA § 39.905.

12 **Q. Has the Commission adopted rules implementing the legislative mandates in**
13 **PURA § 39.905?**

14 A. Yes. Rule 25.181 sets forth the framework for utilities' energy efficiency
15 programs, including not only the methods to calculate energy and demand
16 reductions, but also the EECRF mechanism by which utilities can apply to
17 recover costs incurred for energy efficiency programs.

18 **Q. Please summarize the process by which utilities can apply for recovery of**
19 **energy efficiency costs.**

20 A. Rule 25.181(f) requires a utility to establish an EECRF to timely recover the
21 reasonable costs of providing a portfolio of energy efficiency programs. For a
22 utility that does not recover energy efficiency costs through base rates, the
23 EECRF shall be calculated to recover four things:

- 24 1. the utility's forecasted annual energy efficiency program
25 expenditures;

- 1 2. the preceding year's over- or under-recovery that includes EECRF
2 expenses incurred by the utility in the prior year's EECRF
3 proceeding;
4
5 3. any performance bonus earned under Rule 25.181(h); and
6
7 4. any EM&V costs allocated to the utility by the Commission.
8
9 A utility that does not offer customer choice, such as SPS, must file its application
10 for an EECRF no later than May 1 of each year. The presiding officer must then
11 set a procedural schedule that will allow the Commission to issue a final order
12 before January 1 of the following year, which is when the new EECRF will take
13 effect.
- 14 **Q. Does Rule 25.181 prescribe the contents of the application to establish the**
15 **utility's EECRF?**
- 16 A. Yes. Rule 25.181(f)(10) states that "a utility's application to establish or adjust an
17 EECRF shall include testimony and schedules, in Excel format with formulas
18 intact." For both the prior program year and the program year for which the
19 proposed EECRF will be collected, the utility must set forth thirteen categories of
20 information, to the extent they are applicable. In Table MVP-1 below, I set forth
21 these thirteen categories and identify where each element of required information
22 is found in SPS's testimony and attachments:

Table MVP-1

Rule 25.181(f)(10) Subsection	Requirement	Location in Testimony and Attachments
25.181(f)(10)(A)	The utility's forecasted energy efficiency costs.	<i>See:</i> Direct Testimony of J. Derek Shockley at Section III; Attachment JDS-1 at Section IV; and Direct Testimony of Jeffrey L. Comer at Section IV; Attachment JLC-1.
25.181(f)(10)(B)	The actual base rate recovery of energy efficiency costs, adjusted for changes in load subsequent to the last base rate proceeding, with supporting calculations.	SPS does not currently recover energy efficiency costs in base rates. <i>See:</i> Direct Testimonies of Michael V. Pascucci at Section VII and Jeffrey L. Comer at Section VII.
25.181(f)(10)(C)	The energy efficiency performance bonus that it calculates to have earned for the prior year.	SPS does not qualify for an energy efficiency bonus based upon performance in PY 2014. <i>See:</i> Direct Testimony of Michael V. Pascucci at Section X; Attachment JDS-1 at Section XIII; and Direct Testimony of Jeffrey L. Comer at Section IV..
25.181(f)(10)(D)	Any adjustment for past over- or under-recovery of energy efficiency revenues.	<i>See:</i> Direct Testimony of Michael V. Pascucci at Section VIII; Attachment JDS-1 at Section XII; and Direct Testimony of Jeffrey L. Comer at Sections IV, V, and VIII; Attachment JLC-1.
25.181(f)(10)(E)	Information concerning the calculation of billing	<i>See:</i>

Rule 25.181(f)(10) Subsection	Requirement	Location in Testimony and Attachments
	determinants for the most recent year and for the year in which the EECRF is expected to be in effect.	Direct Testimony of Jeffrey L. Comer at Section VII, and Attachments JLC-1 and JLC-3.
25.181(f)(10)(F)	The direct assignment and allocation of energy efficiency costs to the utility's eligible rate classes, including any portion of energy efficiency costs included in base rates, provided that the utility's actual EECRF expenditures by rate class may deviate from the projected expenditures by rate class, to the extent doing so does not exceed the cost caps in Rule 25.181(f)(7).	<i>See:</i> Direct Testimony of Jeffrey L. Comer at Sections VII and VIII, and Attachment JLC-1.
25.181(f)(10)(G)	Information concerning calculations related to the requirements of Rule 25.181(f)(7).	<i>See:</i> Direct Testimony of Jeffrey L. Comer at Section VIII, and Attachment JLC-1.
25.181(f)(10)(H)	The incentive payments by the utility, by program, including a list of each energy efficiency administrator and/or service provider receiving more than five percent of the utility's overall incentive payments and the percentage of the utility's incentives received by these providers.	<i>See:</i> Attachment JDS-3(CONF).
25.181(f)(10)(I)	The utility's administrative costs, including any affiliate costs and EECRF proceeding expenses and an explanation of both.	<i>See:</i> Direct Testimony of Michael V. Pascucci at Sections VI - IX; and Attachment JDS-1 at Sections VII and VIII.

Rule 25.181(f)(10) Subsection	Requirement	Location in Testimony and Attachments
25.181(f)(10)(J)	The actual EECRF revenues by rate class for any period for which the utility calculates an under- or over-recovery of EECRF costs.	<i>See:</i> Direct Testimony of Jeffrey L. Comer at Sections V and VII, and Attachment JLC-1.
25.181(f)(10)(K)	The utility's bidding and engagement process for contracting with energy efficiency service providers, including a list of all energy efficiency service providers that participated in the utility programs and contractors paid with funds collected through the EECRF.	<i>See:</i> Direct Testimony of J. Derek Shockley at Section V, and Attachment JDS-3 (CONF).
25.181(f)(10)(L)	The estimated useful life used for each measure in each program, or a link to the information if publicly available.	<i>See:</i> Attachment MPV-2; and Direct Testimony of J. Derek Shockley at Section VI, Attachment JDS-4.
25.181(f)(10)(M)	Any other information that supports the determination of the EECRF.	<i>See:</i> Direct Testimonies of Michael V. Pascucci, J. Derek Shockley, and Jeffrey L. Comer.

1 In addition, Rule 25.181(f)(11) requires that ten more categories of
2 information be included in the application, as applicable. In Table MVP-2, I
3 identify where the subsection (f)(11) items appear in SPS's testimony and
4 attachments.