



Filing Receipt

Received - 2022-03-28 02:03:43 PM
Control Number - 52485
ItemNumber - 139

SOAH DOCKET 473-22-1073
PUBLIC UTILITY COMMISSION OF TEXAS DOCKET NO. 52485

APPLICATION OF SOUTHWESTERN)	
PUBLIC SERVICE COMPANY TO)	
AMEND ITS CERTIFICATE OF)	
CONVENIENCE AND NECESSITY TO)	
CONVERT HARRINGTON)	BEFORE THE STATE OFFICE
GENERATING STATION FROM COAL)	
TO NATURAL GAS)	OF
)	
)	ADMINISTRATIVE HEARINGS
)	
)	
)	

**SIERRA CLUB’S RESPONSE TO SOUTHWESTERN PUBLIC SERVICE COMPANY’S
FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION**

Sierra Club hereby provides its responses and objections to Southwestern Public Service Company’s (“SPS’s” or the “Company’s”) First Request for Information (“RFI”) to Sierra Club.

I. GENERAL OBJECTIONS & RESPONSES

Sierra Club objects to SPS’s First Request for Information insofar as the questions seek:

(A) to impose more burdensome requirements for discovery than the applicable requirements of 16 Texas Administrative Code (“TAC”) Chapter 22, the Texas Rules of Civil Procedure, the Texas Administrative Procedure Act, Tex. Gov’t Code Ann. Chapter 2001, or Commission precedent; (B) disclosure of privileged communications and information pursuant to the attorney-client privilege or disclosure of communications and information protected from discovery under the attorney work product doctrine; or (C) information that has no tendency to make a fact more or less probable than it would be without the evidence or that has no relevance to any fact is of consequence in determining the action. Subject to and without waiving these general objections, Sierra Club responds to SPS’s First Request for Information to Sierra Club,

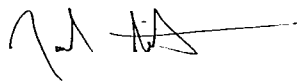
expressly reserving all evidentiary and other objections concerning Sierra Club's responses and any related documents that SPS may seek to offer into evidence in this case. Sierra Club's responses are made in the spirit of cooperation without waiving Sierra Club's right to contest the admissibility of any of these matters at hearing. When Sierra Club provides certain information sought by the request while objecting to the provision of other information, it does so without prejudice to its objection in the interests of narrowing discovery disputes under 16 TAC § 22.144(d)(5). Pursuant to 16 TAC § 22.144(c)(2)(F), Sierra Club stipulates that its responses may be treated by all parties as if they were made under oath.

II. SPECIFIC RESPONSES

Sierra Club's written responses to SPS's First Request for Information are attached and incorporated by reference. Each response is stated on or attached to a separate page on which the request has been restated. In accordance with 16 TAC § 22.144(c)(2)(A), each response lists the preparer or person under whose direct supervision the response was prepared and any sponsoring witness.

Dated: March 28, 2022

Respectfully submitted,



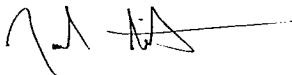
Joshua Smith
Tony Mendoza
Dru Spiller
Sierra Club Environmental Law Program
2101 Webster St., Suite 1300
Oakland, CA 94612
Tele: 415-977-5560 (Joshua Smith)

Email: joshua.smith@sierraclub.org
tony.mendoza@sierraclub.org
dru.spiller@sierraclub.org

Counsel for Sierra Club

CERTIFICATE OF SERVICE

I, Joshua Smith, certify that a copy of the foregoing Sierra Club submission was served upon all parties of record in this proceeding on March 28, 2021, by e-mail, as permitted by the presiding officer.



Joshua Smith
Sierra Club

RESPONSES

SPS REQUEST NO. 1-1: Reference the First Notice of Errata to Direct Testimony of Devi Glick (“First Notice of Errata”) filed in the New Mexico Counterpart to this proceeding, Case No. 21-00200-UT. Produce all written and or electronic communications between Ms. Glick or any member of her team at Synapse Energy Economics (“Synapse”) and any employee at Encompass relating to the modeling errors described in Paragraphs 3 through 7 of the affidavit included with her First Notice of Errata.

RESPONSE:

Sierra Club objects to this request because it seeks information that is privileged and protected from disclosure pursuant to the attorney work product and/or attorney-client privileges.¹ Privileged work product includes material prepared or mental impressions developed in anticipation of litigation by or for a party or a party’s representatives, including the party’s consultants, as well as communications made in anticipation of litigation between a party and its representatives, or among its representatives, including the party’s attorneys.² Communications responsive to these requests include communications between Sierra Club’s counsel or its consultants, developed in anticipation of this litigation or at the request of Sierra Club’s counsel, to facilitate legal advice and litigation strategy regarding the economic modeling that Sierra Club’s consultants conducted at the request of, and in support of, Sierra Club’s position in this litigation. Accordingly, these responsive materials are properly protected from disclosure pursuant to the work product privilege, the attorney-client privilege, or both.

¹ Tex. R. Civ. Proc. 192.5 and Tex. R. Evid. 503.

² Tex. R. Civ. Proc. 192.5(a).

SPS REQUEST NO. 1-2: Reference the First Notice of Errata. Provide the exact (if known) or approximate date upon which Synapse became aware of the modeling output errors described in the First Notice of Errata.

RESPONSE:

On February 3, 2022, I became aware there was an error.

SPS REQUEST NO. 1-3: Reference the First Notice of Errata. Provide a narrative description and timeline of the steps that Synapse took to discover and correct the modeling errors reflected in Ms. Glick's originally filed direct testimony.

RESPONSE:

- **December 2021:** I started the modeling project in EnCompass Version 5.1.8.
- **December 23, 2021:** EnCompass Version 6.0 was launched
- **January 4, 2022:** Synapse updated to version 6.0.
- **January 5, 2022:** Synapse tried to set off modeling runs in version 6.0 but received error messages across all our projects.
- **January 7, 2022:** Synapse received confirmation from Anchor Power Solution that Version 6.0 needed a patch that would take a few days to produce. In the meantime, we would not be able to use the model unless we reverted back to version 5.1.8. We decided to revert back.
- **January 7-11 2022:** I finalized our modeling results in version 5.1.8 (I believe the exact date was January 9).
- **January 11, 2022:** Anchor Power launched a patch and Synapse updated to Version 6.0.2.
- **January 14, 2022:** I filed testimony based on the results from Version 5.1.8.
- **Week of January 10, 2022:** I set off the Harrington Runs in Version 6.0.2 to see how the results compared to what we found in Version 5.1.8. I observed a large and unexplained unserved energy issue in the results.
- **January 14, 2022:** My team reached out to Anchor Power about the unserved energy issue in Version 6. Anchor Power asked for our modeling files.
- **January 17, 2022:** My team reached out to the SPS for permission to share the files with Norm. Permission was granted.
- **January, 25, 2022:** My team emailed Anchor Power the files. They replied that in Version 6, they had changed the capacity periods. Because Xcel uses a regional reserve margin – we had to change our reserve margin to a BA (balancing authority) level reserve margin.
- **End of January / Early February:** I implemented the reserve margin changes, but the results still didn't make sense. My team continued to trouble shoot.
- **February 1, 2022:** Elsey filed rebuttal testimony

- **February 3, 2022:** I began my review of Elsey's testimony and saw his claims about my error with the Wholesale load. I started to dig into the model to figure out what would explain this result given that we had not edited load at all. But we still could not get SPS's files to run in EnCompass version 6.0.
- **February 7, 2022:** We reached out to Anchor Power again about why our results still showed a huge unserved energy issue.
- **February 8, 2022:** Anchor Power responded that we had found a bug with capacity periods that he would fix that in the next update. But in the meantime, he gave us a work around. We implemented the work around and finally got the model to run as intended in version 6.0.2. (note that these changes to the capacity period are ones Xcel itself will have to implement when it moves to version 6.)
- **February 10, 2022:** I processed the results from our first set of Errata runs. I confirmed that these runs all included the proper Adders, and therefore the issue was isolated to version 5.1.8. Note that version 6.0.2 properly included all Adders, therefore the errata corrected ALL Adder errors, even the ones I had not yet realized were present in the original results.
- **February 11, 2022:** I continued to set off our sensitivities and other scenarios. I filed our first errata with the runs that were complete at that time. I still thought the issue was isolated to the Wholesale load Adder.
- **February 12, 2022:** I finished the last sets of runs and filed our errata.
- **February 16, 2022:** During the hearing, Mr. Elsey said on the stand that he believed my modeling also omitted the Transmission Adders. I realized that the model error with adders might extend beyond the load. I looked at the solar energy costs in the output files from both version 5.1.8 used in testimony and the errata and saw a large difference. I emailed Anchor Power that afternoon and asked if this was something that could have occurred by moving backwards between EnCompass versions. Anchor Power responded later that night confirming that there was an incompatibility with moving backwards between EnCompass versions that impacted the Adders.
- **February 17, 2022:** I acknowledged the issue with all Adders on the stand but confirmed that these issues had all been fixed in the errata.

SPS REQUEST NO. 1-4: Admit that Synapse became aware of modeling output errors relevant to Ms. Glick's testimony in Case No. 21-00200-UT on or before January 17, 2022.

RESPONSE:

Deny. See response to SC 1-2 and SC 1-3.

SPS REQUEST NO. 1-5: Provide all Synapse modeling and modeling-related analysis conducted in relation to Harrington Generation Station since February 15, 2022. This is a continuing request.

RESPONSE:

To the extent this request seeks draft analyses conducted for the above-captioned proceeding, Sierra Club objects to this request because it seeks information that is privileged and protected from disclosure pursuant to the attorney work product and/or attorney-client privileges.³ Privileged work product includes material prepared or mental impressions developed in anticipation of litigation by or for a party or a party's representatives, including the party's consultants, as well as communications made in anticipation of litigation between a party and its representatives, or among its representatives, including the party's attorneys.⁴ Communications or draft analyses responsive to this request includes certain communications between Sierra Club's counsel or its consultants, developed in anticipation of this litigation or at the request of Sierra Club's counsel, to facilitate legal advice and litigation strategy regarding the economic modeling that Sierra Club's consultants conducted at the request of, and in support of, Sierra Club's position in this litigation. Accordingly, these responsive materials are properly protected from disclosure pursuant to the work product privilege, the attorney-client privilege, or both.

Subject to and without waiving the foregoing, Synapse completed all EnCompass modeling runs related to the Harrington Analysis before February 15, and has not conducted any additional modeling runs since that date. Concurrent with this discovery response, Sierra Club will produce the workpapers associated with Ms. Glick's finalized March 25, 2022 testimony.

³ Tex. R. Civ. Proc. 192.5 and Tex. R. Evid. 503.

⁴ Tex. R. Civ. Proc. 192.5(a).