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DOCKET NO. 52485**

<b>APPLICATION OF SOUTHWESTERN PUBLIC SERVICE COMPANY TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO CONVERT HARRINGTON GENERATING STATION FROM COAL TO NATURAL GAS</b>	<b>§ § § § § § §</b>	<b>BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS</b>
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**REBUTTAL TESTIMONY  
*of*  
JEFFREY L. WEST**

*on behalf of*

**SOUTHWESTERN PUBLIC SERVICE COMPANY**

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## **GLOSSARY OF ACRONYMS AND DEFINED TERMS**

<b><u>Acronym/Defined Term</u></b>	<b><u>Meaning</u></b>
BART	Best Available Retrofit Technology
Commission	Public Utility Commission of Texas
CSAPR	Cross-State Air Pollution Rule
EPA	Environmental Protection Agency
FIP	Federal Implementation Plan
Harrington	Harrington Generating Station
NAAQS	National Ambient Air Quality Standards
SO <sub>2</sub>	sulfur dioxide
SPS	Southwestern Public Service Company, a New Mexico corporation
TPWD	Texas Parks and Wildlife Department

**REBUTTAL TESTIMONY  
OF  
JEFFREY L. WEST**

**I. WITNESS IDENTIFICATION**

1

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

3   A.     My name is Jeffrey L. West. My business address is 1800 Larimer Street, Suite  
4           1300, Denver, Colorado 80202.

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

6   A.     I am a Senior Director in Environmental Services at Xcel Energy Inc.

7   **Q.     On whose behalf are you testifying in this docket?**

8   A.     I am testifying on behalf of Southwestern Public Service Company, a New Mexico  
9           corporation (“SPS”).

10  **Q.     Are you the same Jeffrey L. West who filed direct testimony on behalf of SPS**  
11           **in this docket?**

12  A.     Yes.

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A. My rebuttal testimony responds to certain issues raised and recommendations proposed by the following Intervenor and Staff witnesses:

- Q. Please summarize the conclusions in your rebuttal testimony.**

In short, Ms. Glick's summary on the status of current federal environmental regulations as they relate to Harrington Generating Station ("Harrington") is incomplete and fails to acknowledge material uncertainties. As such, Ms. Glick's speculation as to the possibility of future regional controls related to Harrington is based on unknowns that have no current basis in fact. Additionally, contrary to Ms. Glick's assertions, SPS is familiar with permitting that must occur at Harrington in order to convert the plant and such permitting can and will be accomplished prior to completion of the project. Ms. Glick's current speculation related to the possibility of future environmental regulation and the permitting status of Harrington is unreasonable.

With respect to Mr. Poole’s testimony on the recommendations of the Texas Parks and Wildlife Department (“TPWD”), my testimony confirms that SPS will work with the TPWD to address any environmental issues related to the construction of the pipeline, will comply with the TPWD recommendations as applicable in the context of the pipeline build, and will provide TPWD with a status

- 1 report prior to the commencement of construction and a final report within 30 days
- 2 of the completion of construction.

1     **III.     STATUS OF ENVIRONMENTAL PROTECTION AGENCY REGIONAL**  
2                                   **HAZE REGULATIONS**

3     **Q.     Ms. Glick’s direct testimony speculates that there are likely to be future**  
4                   **environmental regulations relevant to Harrington following the conversion.**  
5                   **Do you agree with Ms. Glick’s comments on the current status of those rule**  
6                   **developments?**

7     A.     No. Ms. Glick’s summary appears to lack some relevant detail relating to the  
8                   development and status of the proposed regulations referred to in her testimony. In  
9                   particular, there is no current clear timetable for the Environmental Protection  
10                  Agency’s (“EPA”) reconsideration of a Best Available Retrofit Technology  
11                  (“BART”) rule and its development has not been particularly smooth to date. Some  
12                  background on that process is relevant to consider. For instance, in January 2017,  
13                  the EPA originally published a proposed Federal Implementation Plan (“FIP”) rule  
14                  that would have implemented BART regulation in Texas. The proposed rule would  
15                  have required scrubbers on Harrington units 1 and 2 (the only BART eligible units  
16                  at Harrington) at a cost of several hundred million dollars. The EPA was required  
17                  to finalize that rule by September 30, 2017.

18                  However, on September 29, 2017, the EPA published a FIP with an  
19                  effective date of January 1, 2019 – thereby implementing a Texas-only sulfur  
20                  dioxide (“SO<sub>2</sub>”) trading program based on Cross-State Air Pollution Rule  
21                  (“CSAPR”) allowances. In contrast with the original proposed FIP, the Texas-only  
22                  SO<sub>2</sub> trading program would not have required scrubbers at Harrington on any of  
23                  the units, as all three units can comply with the Texas trading program.

1           In September of 2018, the EPA proposed another rule to reconsider the final  
2           rule implementing BART and made it available for notice and comment. The  
3           proposed 2018 rule would affirm the rule published in September of 2017 with  
4           minor corrections. In the meantime, the EPA finalized a rule removing Texas from  
5           CSAPR for SO<sub>2</sub>. Under the proposed 2018 BART rule, SPS can maintain  
6           compliance by using allocated allowances without the need for added controls at  
7           Harrington. Additionally, the 2018 FIP rule would not require the installation of  
8           controls for SO<sub>2</sub> (scrubbers), nitrogen oxides (selective catalytic reduction), or  
9           particulate matter. Regardless, the EPA finalized the rule with an effective date of  
10          September 11, 2020, and it was immediately challenged by environmental groups.

11          Currently, the EPA has announced its intention to reconsider the Texas  
12          BART FIP rule. This decision will have the effect of holding any judicial  
13          challenges in abeyance. However, neither SPS nor the Sierra Club can predict at  
14          this time whether or when any of the proposed rule changes referred to above might  
15          be adopted.



1     **IV. POTENTIAL FOR HARRINGTON TO FACE FUTURE REGIONAL HAZE**  
2                                   **RESTRICTIONS**

3     **Q.     How do you respond to Ms. Glick's suggestion that Harrington may face**  
4           **regional haze restrictions in the future, even after conversion?**

5     A.     No current regulation supports her claim. The Regional Haze Rule requires  
6           visibility at 156 national parks and wilderness areas across the United States  
7           designated by EPA to be the same in 2064 as it was 2005. The visibility required  
8           by the EPA is documented and measured in 10-year cycles for Reasonable Further  
9           Progress wherein a state is permitted to demonstrate its progress in the form of a  
10          glidepath in attaining the requirements. Texas is required to follow this process.  
11          The next cycle for Reasonable Further Progress evaluation will begin in 2028.  
12          Currently, Texas is meeting the glidepath for compliance and, accordingly, will not  
13          require any further controls at Harrington to comply with the Regional Haze Rule.  
14          Additionally, due to the current retirement dates of the units and their emission  
15          reductions of SO<sub>2</sub> when converting to natural gas fuel, it would be deemed  
16          unreasonable to install any further controls at Harrington for the purpose of  
17          Regional Haze when completing the Four Factor analysis required by the rule.

18    **Q.     Does Ms. Glick's testimony contain any other flawed assumptions with respect**  
19          **to her Regional Haze Rule predictions?**

20    A.     Yes. Importantly, the units are scheduled for retirement in 2036, 2038, and 2040,  
21          respectively. The retirements will coincide with the end of next phase of  
22          Reasonable Further Progress and there is no known scenario where additional  
23          controls would be required at the units due to their retirement dates in relation to  
24          Reasonable Further Progress, particularly once they have been converted to gas,

1 where SO<sub>2</sub> and particulate matter are no longer a concern. Any control scenarios  
2 would be deemed economically unviable due to the unit retirement dates in relation  
3 to what would be the likely compliance date (3 to 5 years following the start of the  
4 planning period that will begin in 2038). Therefore, there are no known scenarios  
5 in regard to Regional Haze where additional controls would be required prior to  
6 retirement.

7 **Q. Ms. Glick also notes that the EPA Administrator signed a proposed “Good**  
8 **Neighbor” FIP for 2015 Ozone National Ambient Air Quality Standards that**  
9 **could affect Harrington and require additional costs. Do you have any**  
10 **comments on the new proposed FIP?**

11 A. Ms. Glick is correct that the EPA has taken recent action on a “Good Neighbor”  
12 FIP. The new proposed rule would implement a FIP in certain impacted states  
13 listed in the rule. Texas is one of these states. Under the new proposed rule, the  
14 EPA will promulgate a Group 3 allowance program for nitrogen oxides allowances  
15 for the affected sources in the states. These allowances will be based on emission  
16 history profiles and National Ambient Air Quality Standards (“NAAQS”).  
17 However, this rule is also in a proposed state and is not final. SPS will be  
18 commenting on the rule, along with other industry groups and affected sources. As  
19 such, the requirements currently listed in the proposed rule may change. In the  
20 event the current proposed rule remains unchanged in its final form, SPS will  
21 evaluate a compliance strategy associated with the new rule requirements. This can  
22 include an allowance strategy for SPS based on operation of the affected units and  
23 the allocated allowances. In the event that additional allowances would be needed,

- 1 SPS would work to secure through the Group 3 allowance trading program listed
- 2 in the proposed rule.

1                   V.     **FINAL PERMITTING AND TPWD ISSUES RELATED TO**  
2   **CONVERSION**

3     **Q.     Ms. Glick argues that permitting necessary for the conversion will require**  
4           **more time and resources than SPS has anticipated. Do you agree?**

5     A.    No. SPS is familiar with each of the permits that must be obtained during the  
6           buildout of the pipeline and conversion at the plant, and it is not yet appropriate to  
7           seek permitting from any required agency. It would also be premature to seek  
8           permitting prior to New Mexico and Texas regulatory authorities granting SPS's  
9           request to amend its Certificates of Public Convenience and Necessity for  
10          Harrington. In fact, certain permits, such as the T-4 permit from the Railroad  
11          Commission of Texas, should not be sought until a route has been finally identified  
12          and a construction start date has been set. If the commissions in both states approve  
13          SPS's request, SPS will obtain any and all necessary permits from the U.S. Army  
14          Corps of Engineers, EPA, Railroad Commission of Texas, Texas Commission on  
15          Environmental Quality, and the TPWD. These permits are traditionally completed  
16          in 2 to 3 months, if not sooner. Additionally, consistent with the Environmental  
17          Assessment conducted in connection with SPS's Texas application to convert  
18          Harrington, no actions required by the National Environmental Policy Act or other  
19          federal actions appear applicable. Therefore, there are no long lead times  
20          associated with permitting efforts and pipeline conversion.

21    **Q.     Mr. Poole recommends that certain TPWD recommended mitigation**  
22           **measures be followed by SPS during the pipeline build. Do you have any**  
23           **concerns with or objections to Mr. Poole's TPWD related recommendations?**

1 A. Generally, no. SPS has worked with the TPWD on many projects in the past and  
2 is familiar with TPWD's preferences and practices. As a point of clarification, I  
3 would note that TPWD's preferences and practices are addressed on an as  
4 applicable basis. For instance, if no migratory birds are impacted by the proposed  
5 project, then no management practice must be employed to minimize any potential  
6 impact. Similarly, any erosion controls required by the TPWD are based on the  
7 nature of the specific site where erosion controls may be necessary. Put differently,  
8 the entire pipeline route will not require erosion controls, only certain portions of it  
9 will. Where TPWD's better practices are applicable to the project build, SPS will  
10 follow those practices. As such, SPS also has no general objection to collaborating  
11 with the TPWD, as Mr. Poole recommends. However, with respect to Mr. Poole's  
12 recommendations that SPS file status reports with the TPWD prior to the  
13 commencement of construction and following construction, SPS requests that it be  
14 permitted to collaborate with the TPWD, consistent with applicable standards and  
15 current practice, and that any necessary reporting be the result of that collaboration.

16 **Q. Does this conclude your pre-filed rebuttal testimony?**

17 A. Yes.

**AFFIDAVIT**

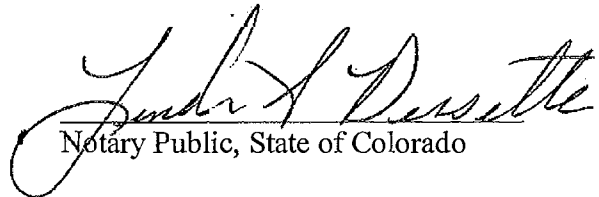
STATE OF COLORADO     )  
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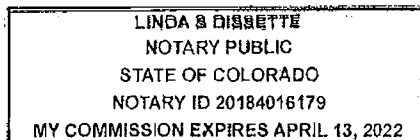
JEFFREY L. WEST first being sworn on his oath, states:

I am the witness identified in the preceding rebuttal testimony. I have read the testimony and the accompanying attachment(s) and am familiar with the contents. Based upon my personal knowledge, the facts stated in the testimony are true. In addition, in my judgment and based upon my professional experience, the opinions and conclusions stated in the testimony are true, valid, and accurate.

  
JEFFREY L. WEST

Subscribed and sworn to before me this 12 day of April, 2022 by JEFFREY  
L. WEST

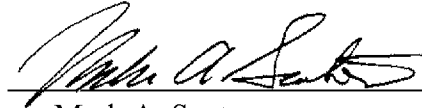
  
Notary Public, State of Colorado



My Commission Expires: 4-13-22

### **CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on April 13, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

  
\_\_\_\_\_  
Mark A. Santos