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Received - 2022-05-25 01:36:23 PM
Control Number - 52485
ItemNumber - 182

**SOAH DOCKET NO. 473-22-1073
PUC DOCKET NO 52485**

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

SIERRA CLUB’S POST-HEARING REPLY BRIEF

Southwestern Public Service Company’s (“SPS’s”) *own* economic modeling evidence, as well as the Independent Evaluator’s report, indisputably demonstrate that, under *every* scenario evaluated, the retirement of at least one Harrington unit is the least-cost and “best” option for Texas consumers.¹ SPS’s arguments to the contrary not only eschew the evidence they themselves submitted in this case, but rely on qualitative factors and speculative assumptions, like the mere *possibility* of the third Harrington unit being called by the market in the future (never mind their own team’s predictions). Such conjecture is unreliable and unpersuasive.

SPS attempts to undermine Sierra Club’s position by pointing out that “installing new gas units . . . is contrary to Sierra Club’s renewable energy priorities. . . .”² But that argument is not relevant to the question before the Commission: What is the least-cost, least-risk option for providing reliable service for SPS’s captive ratepayers? SPS’s own analysis supplies the answer: converting two units, retiring the other.

¹ SPS Ex. 10, Direct Testimony of D. Dean Koujak, Attach. DDK-1 at 14; SPS Ex. 7, Direct Testimony of Ben R. Elsey, Attach. BRE-1 (PVRR tables).

² SPS Initial Br. at 25.

SPS criticizes Sierra Club for not considering “real-world conditions”³ The reality is that, as a result of SPS’s private deal with the Texas Commission on Environmental Quality (“TCEQ”) and the Company’s foot-dragging in procuring alternatives, the Commission has only two alternatives: either convert all three Harrington units, or—the least-cost option—retire one and convert the other two. Indeed, out of the six purportedly available options SPS evaluated, the two pollution control options are barred by the Texas agreement and were never really options at all.⁴ And we now understand that the alternative resources the Company modeled cannot be acquired in time to provide the capacity needed to retire all three (or even two) Harrington at the end of 2024, when SPS voluntarily agreed to cease burning coal.⁵ Thus, even if the Commission concluded that acquiring the replacement resources necessary to retire all three (or even two) Harrington units was the best option for consumers, those options are essentially impossible, as a SPS’s commitment to cease burning coal and its delay in pursuing replacement capacity.⁶ Given the available real-world options available to the Commission, both the Company’s *own* economic analysis and an Independent Evaluator’s review both make clear that, under every scenario modeled, the conversion of only *two* Harrington units is the least-cost option for complying with the Company’s commitment to cease burning coal.

SPS’s Initial Brief fails to refute that fundamental fact, and its remaining qualitative

³ SPS Initial Br. at 30.

⁴ Sierra Club agrees with SPS that continuing to burn coal at Harrington is uneconomical. When SPS filed the 2021 analysis, however, the Company should have explained that the Texas agreement explicitly precluded continued coal use, and therefore it was no longer an option.

⁵ SPS Ex. 8, Rebuttal Testimony of Ben R. Elsey at 11.

⁶ The options for retrofitting Harrington to add pollution controls to reduce sulfur dioxide (“SO₂”) are also illusory because SPS has already committed, in its deal with TCEQ, to permanently cease burning coal. SPS Ex. 15, Direct Testimony of Jeffrey L. West at Attach. JLW-1 at 4 of 7 (Agreed Order requiring SPS to cease burning coal at Harrington).

arguments are unavailing. **First**, although SPS claims that converting all three units is needed to serve capacity purposes down the road, the Company has failed to demonstrate a need for the entirety of Harrington’s current capacity. Under the Company’s financial load forecast—i.e., its “median expectation” for future energy demand—SPS could retire Unit 1 and still have a capacity surplus until 2027. That gives the Company nearly five years to procure additional resources.⁷ More troubling, according to the Company’s own economic modeling supporting the Application, Harrington Unit 1 will *never* run after it is converted, and the other two units will operate only minimally.⁸ Nor are the Harrington units as flexible or nimble as other faster-ramping sources that can quickly respond to periods of high demand.⁹ In short, SPS does not immediately need the full capacity of Harrington; and even under the Company’s optimistic load forecasts—which assumes a significant increase in energy sales despite the last decade of decline—the Company admittedly can convert the third Harrington unit in a matter of months.

Second, notwithstanding SPS’s suggestions in briefing to the contrary, the conversion of only two units remains the most economical option among the feasible alternatives. As noted, out of the six options SPS studied, only two remain viable: the conversion of all three units, or converting two and retiring Unit 1. Of those two remaining options, SPS’s own analysis shows that retiring at least one of the Harrington units is the least-cost option for customers over the long term, from 2022 through 2040, under every one of the 36 sensitivities.¹⁰ Even the Independent Evaluator’s report shows that retiring one or more of the Harrington units is the

⁷ SPS Ex. 14, Direct Testimony of John M. Goodenough at 7. As discussed below, with the retirement of Unit 1, SPS would have a capacity deficit of only 61 MW in 2027.

⁸ Sierra Club Ex. 1, Direct Testimony of Devi Glick at 24, 54.

⁹ *Id.* at 31.

¹⁰ SPS Ex. 10, Direct Testimony of D. Dean Koujak, Attach. DDK-1 at 14; SPS Ex. 7, Direct Testimony of Ben R. Elsey, Attach. BRE-1 (PVR tables).

“best” outcome for ratepayers under every sensitivity run.¹¹

Third, in its Initial Brief, SPS does not dispute Sierra Club witness Glick’s testimony that SPS’s proposal understated the costs and risks of continuing to operate Harrington Unit 1.¹² Specifically, SPS’s Initial Brief fails to grapple with Ms. Glick’s testimony that the Company’s estimate of continuing capital and operating costs are significantly lower than SPS’s historical expenses. SPS’s Initial Brief similarly fails to address the environmental compliance risks associated with converting the Harrington units, including carbon regulation and impending Clean Air Act regulations that could impose as much as \$20-30 million per unit.¹³ The retirement of Unit 1 would eliminate, or at least mitigate, some of that risk.

Finally, while the retiring of one unit may cost slightly more in the short term, in the long term it offers more savings and benefits to customers than converting a unit that is unlikely to be used after conversion. SPS argues against that alternative because it costs approximately \$39 million more in the short-term (2022-2024) than converting all three units. But, in another context, SPS witness Elsey and the Independent Evaluator each characterized that same cost differential as within the “margin of error . . . across all sensitivity cases ranges.”¹⁴ Moreover, those initial cost impacts are largely driven by the Company’s assumption that retirement necessitates the acceleration of shareholders’ collection of Unit 1’s remaining book balance and

¹¹ SPS Ex. 10, Direct Testimony of D. Dean Koujak, Attach. DDK-1 at 14 (Table 3 demonstrating that retiring one unit is the “best” scenario under every forecast except the high and base case, financial forecasts, under which retiring all three Harrington units or two units are the “best,” respectively).

¹² Sierra Club Ex. 1, Direct Testimony of Devi Glick at 19-21 (discussing risks associated with the Regional Haze and Good Neighbor rules).

¹³ Tr. 132, 135.

¹⁴ Tr. at 54.

return on investment.¹⁵ But SPS shareholders' profits need not be a barrier to overall customer cost savings. And there would be no unfairness in a Commission order denying SPS's return on investment after the retirement of Unit 1. Indeed, with the extensions of the units' useful lives, SPS shareholders have already benefited from more returns (i.e., profits) on their original investments. Shareholders should not be further rewarded for SPS's decision to continue investing in an unnecessary and uneconomic plant.

In evaluating SPS's proposed certificate of public convenience and necessity ("CCN"), the Commission has broad authority to issue or deny the certificate, but also to issue it for the construction or operation of a portion only of the contemplated facility.¹⁶ In addition, the Commission may take steps to mitigate any rate increases that may result from the early retirement of Harrington Unit 1, including by extending the depreciation of the plant or limiting shareholders' collection of profits by allowing a return of, but not a return on investment, options that SPS does not dispute are available to the Commission.¹⁷ The Commission should reject SPS's proposal to convert all three Harrington units because the Company failed to meet its burden of demonstrating that the proposed conversion is necessary to provide reliable service, or is the most economical choice among the alternatives. Alternatively, if the Commission issues a CCN for the conversion of all three Harrington units, the Commission should protect customers from unnecessary costs if SPS's optimistic capital and operational cost forecasts prove incorrect.

¹⁵ SPS Ex. 7, Direct Testimony of Ben R. Elsey at 37 ("The high initial customer cost impact is largely driven by the accelerated depreciation expense and decommissioning costs . . .").

¹⁶ See PURA § 37.056; *Pub. Util. Comm'n of Tex. v. Texland Elec. Co.*, 701 S.W.2d at 266, writ refused NRE (Mar. 5, 1986); see also *In re Qwest Communications Intern.*, 131 N.M. 770, 42 P.3d 1219,1221 (N.M. Sup. Ct. 2002) (The Commission has "broad authority" to regulate utilities and "place conditions" on any certificate of convenience and necessity, or take other "appropriate measures necessary to ensure" that the proposed certificate does not result in adverse consequences to customers).

¹⁷ See PURA § 39.001(a). *Sw. Elec. Power Co. v. Pub. Util. Comm'n*, 419 S.W.3d at 426; SPS Ex. 6, see also Rebuttal Testimony of William A. Grant at 6, 9, 13.

ARGUMENT

I. SPS has failed to demonstrate a need for the entirety of Harrington’s current capacity. [Preliminary Order Issues 9, 12, 13, 14, 15, 18, 31]

SPS argues that the conversion of all three units presents “the lowest risk of SPS being placed in a situation where it might lack needed capacity in 2026 and beyond.”¹⁸ In fact, however, SPS could retire Harrington Unit 1 and still meet its median capacity needs until 2025 or even 2026, as the Company concedes.¹⁹ SPS also claims that Texas has a larger capacity need than New Mexico, but the submitted evidence does not show a significant need for more capacity in the near future for either state such that the conversion of all three units is necessary.

Under the Company’s financial load forecast—i.e., its “median expectation” for future energy demand—SPS admits that it could retire Unit 1 and still have a capacity surplus until the end of 2025,²⁰ giving the Company nearly four years to procure additional resources.²¹ Moreover, the economic modeling SPS submitted in support of its Application shows that Harrington Unit 1 will *never* run after it is converted, and the other two units will operate only minimally.²² SPS’s July 2019 Transmission Planning study, conducted using another economic modeling platform, confirmed that the Harrington units “may not be dispatched when converted.”²³ That July 2019 study further concluded that “if the Harrington generation is converted to natural gas but is not dispatched, it is the same as retiring the generation,” because

¹⁸ SPS Initial Br. at 4.

¹⁹ See, e.g., SPS Ex. 8, Rebuttal Testimony of Ben R. Elsey at 11-12; see also, e.g., Sierra Club Ex. 1, Direct Testimony of Devi Glick, Attach. DG-2 at 9 of 185.

²⁰ SPS Initial Br. at 28.

²¹ SPS Ex. 14, Direct Testimony of John M. Goodenough at 7. As discussed below, with the retirement of Unit 1, SPS would have a capacity deficit of only 61 MW in 2027.

²² Sierra Club Ex. 1, Direct Testimony of Devi Glick at 24, 54.

²³ *Id.*, Attach. DG-8 at 2 of 24 (Xcel Energy, Harrington Station Fuel Repowering System Impact Study (July 19, 2019)).

unused units are not able to provide transmission support.²⁴ The Transmission Planning group went on to conclude that the retirement of the Harrington units “had no adverse impacts on the local SPS transmission system.”²⁵ If the three units can be retired without transmission reliability issues, SPS could certainly retire Unit 1 and convert the other two units while maintaining safe and reliable service. Moreover, contrary to SPS’s arguments,²⁶ there is no evidence that the retirement of one Harrington unit would have any impact on voltage support. In fact, SPS witnesses clarified on the stand that there will be no disruption to their ability to meet all reliability obligations while shut down each unit one by one over the course of several months to convert the units.²⁷ As with the Company’s transmission reliability argument, if each unit can be taken offline for months without voltage support issues, SPS could certainly retire Unit 1 and convert the other two units while maintaining safe and reliable service.

Recognizing the difficult position of proposing to spend millions of dollars converting a unit that never runs, in its rebuttal case, SPS reran its modeling with new assumptions purporting to show that the converted Unit 1 might actually be used and useful. In its revised modeling, SPS arbitrarily reducing Harrington’s minimum-up time from 72 hours to 18 hours (without providing any supporting documentation), and also removing 1,000 MW of planned wind resources from the model. Even with those new assumptions, which were clearly designed to make it appear that the converted Harrington units will run more frequently, the model predicts Harrington Unit 1 will only operate at a 0.5% to 1.8% capacity factor.²⁸ Thus, SPS is asking

²⁴ *Id.* at 20 of 24.

²⁵ *Id.* at 14 of 24.

²⁶ SPS Initial Br. at 9.

²⁷ Tr. 33.

²⁸ SPS Ex. 8, Rebuttal Testimony of Ben R. Elsey at 50.

customers to pay \$5 million for a power plant that operates, under SPS's most favorable assumptions, only 43 to 157 hours a year. In any case, SPS's revised, utility-biased modeling does not demonstrate any need for Harrington Unit 1. To the contrary, it reaffirms that SPS can meet any energy needs through a combination of its lower cost generation resources and market purchases.

The Independent Evaluator's report confirms that retiring one Harrington unit is not only the least-cost option, but that it is also the lowest-risk option, since the Company would retain optionality to convert the third unit within a matter of months, should SPS actually need the generating capacity at some point in the future.²⁹ SPS contends that if it were to retire one unit, it "would be forced to relinquish 340 [MW] of interconnection rights"³⁰ As the Company's witnesses admit, however, SPS would retain their interconnection rights for a period of 3 years should SPS mothball the unit.³¹ Furthermore, SPS would still retain optionality to convert the third unit within just a few months, should SPS actually need the generating capacity at some point in the future.³² Indeed, that was the Independent Evaluator's conclusion.³³ On the other hand, once the Commission approves, and the Company invests in, converting the third unit, there is no way to reverse course and ratepayers will be liable for those costs.

II. The conversion of two units remains the most economical option among the feasible alternatives. [Preliminary Order Issues 9, 13, 15, 18, 19]

SPS's request to convert all three units is not supported by substantial evidence in the record. The record does, however, support that the retirement of at least one unit is the least-cost

²⁹ Tr. 33: 11-13.

³⁰ SPS Initial Br. at 19.

³¹ Tr. 128: 15-19.

³² Tr. 33; 128: 12-19.

³³ SPS Ex. 10, Direct Testimony of D. Dean Koujak, Attach. DDK-1 at 15 of 16.

option for ratepaying customers. There is no denying that based on SPS's own analysis, under *every* single resource plan scenario, retiring at least one of the Harrington units is the least-cost option for customers over the long term, from 2022 through 2041.³⁴ Indeed, retiring at least one unit is also the least-cost option for SPS customers over the longer planning horizon under every one of the 36 sensitivities SPS evaluated across two load forecasts, three gas price forecasts, and three transmission interconnection cost forecasts.³⁵ And the Independent Evaluator's report confirms that retiring one or more of the Harrington units is the "best" outcome for ratepayers.³⁶

As SPS notes, the estimated cost for the project ranges from \$65-75 million, with \$45-53 million allocated to Texas retail customers.³⁷ The majority of the project costs stem from the pipeline extension which is the same price whether 2 units or 3 units are converted to gas.³⁸ However, the cost savings from not converting and maintaining the projected-to-be-unused unit are likely higher than the \$5 million (base case, NPVRR) that SPS's modeling shows. As demonstrated by Sierra Club witness Glick, and outlined in Sierra Club's Initial Brief, the Company's cost savings associated with retiring one Harrington unit are likely understated due to a number of flawed or unsupported assumptions.³⁹

SPS acknowledges that the cost of converting the third unit is an additional \$2.6 million

³⁴ SPS Ex. 10, Direct Testimony of D. Dean Koujak, Attach. DDK-1 at 14; SPS Ex. 7, Direct Testimony of Ben R. Elsey, Attach. BRE-1 (PVRR tables).

³⁵ SPS Ex. 7, Direct Testimony of Ben R. Elsey, Attach. BRE-1 (NPVRR Tables); *see also* SPS Ex. 10, Direct Testimony of D. Dean Koujak, Attach. DDK-1 at 14.

³⁶ SPS Ex. 10, Direct Testimony of D. Dean Koujak, Attach. DDK-1 at 14 (Table 3 demonstrating that retiring one unit is the "best" scenario under every forecast except the high and base case, financial forecasts, under which retiring all three Harrington units or two units are the "best," respectively).

³⁷ SPS Initial Br. at 11

³⁸ *Id.*; SPS Ex. 7, Direct Testimony of Ben R. Elsey at 37.

³⁹ Sierra Club Ex. 1, Direct Testimony of Devi Glick at 33-47.; Sierra Club Initial Br. at 12-15.

worth of investment.⁴⁰ While this may be “slight”⁴¹ or “immaterial”⁴² to a utility who has spent years saddling customers with higher rates in order to pay for its investments in ageing and polluting facilities, even a small amount of savings would be beneficial to customers in the long and the short run. And conspicuously, Witness Elsey was unable to identify where materiality begins and ends—unable to answer during cross examination whether, for instance, \$25 million (*i.e.*, the average savings, of converting two units and retiring one, among all scenarios and sensitivities⁴³).⁴⁴ In any case, as the evidence shows, it is neither the best nor most economical decision to approve SPS’s Application to convert all three units to gas just in case the third unit might be useful one day, to some net beneficial extent.

III. SPS’s analysis understates the costs of its preferred gas-conversion alternative. [Preliminary Order Issues 9, 12, 13, 14, 15, 18, 19]

In its Initial Brief, SPS does not dispute Sierra Club witness Glick, however, the Company’s cost savings associated with retiring one Harrington unit are likely understated due to a number of flawed or unsupported assumptions.⁴⁵ As explained in Sierra Club’s Initial Brief, and in Ms. Glick’s testimony, SPS substantially understated the sustaining capital costs at Harrington by assuming annual, sustaining capital expenditures of \$3.75 million. That estimate is much lower than the historical average of \$18.6 million annual capital cost for operating Harrington, lower than the average \$12.5 million annual costs that other utilities report to U.S. Energy Information Agency for operating similarly-sized gas plants, and less than SPS’s own

⁴⁰ SPS Initial Br. at 26.

⁴¹ SPS Initial Br. at 27; *see also id* at 16 (characterizing \$5 million difference as “slightly less”).

⁴² Tr. at 162.

⁴³ SPS Ex. 10, Direct Testimony of D. Dean Koujak, Attach. DDK-1 at 14 of 16.

⁴⁴ Tr. at 162.

⁴⁵ Sierra Club Ex. 1, Direct Testimony of Devi Glick at 33-47.

reported annual \$8.6 million spending at similar gas steam units.⁴⁶ Despite Ms. Glick's testimony, SPS failed, in its rebuttal case, to include any supporting documentation in the record of its optimistically low sustaining capital expenses. If the Company's cost predictions are wrong, SPS customers will bear the burden of increased costs for a unit that is seldom, if ever, used. Even with SPS's unsupported capital cost forecast, retiring one unit—a full third of the plant—should reduce customer costs proportionately—i.e., it would save at least \$1.25 million annually.

SPS's Initial Brief also fails to dispute Ms. Glick's testimony that the retirement of Harrington Unit 1 in 2024 would also avoid potential future environmental compliance costs. Indeed, SPS's analysis failed to model or even consider the compliance risk associated with other impending environmental regulations, including carbon regulations and other Clean Air Act rules, which could be avoided or mitigated with the retirement of Harrington Unit 1. As SPS's witnesses conceded, the Harrington units have no pollution controls for nitrogen oxides.⁴⁷ And if the Company was required to install pollution controls to comply with EPA's regional Haze Rule or the agency's recently proposed Good Neighbor Rule, the Company's environmental compliance witness admitted that those costs could be as much as \$20-30 million per unit.⁴⁸ The retirement of Unit 1 would eliminate, or at least mitigate, the risk that customers would be required to pay for millions of dollars in capital costs to reduce nitrogen oxides pollution.

⁴⁶ See Sierra Club Ex. 1, Direct Testimony of Devi Glick at 33-34, and exhibits cited.

⁴⁷ Tr. 132: 14-18.

⁴⁸ Tr. 135.

Although SPS's Initial Brief failed to dispute Ms. Glick's testimony about the environmental compliance risk associated with the conversion of Unit 1, the Company may argue (belatedly, on reply) that there is no risk that Harrington would be required to reduce emissions to comply with the Clean Air Act's regional haze program because nearby national parks are on the so-called "glidepath" towards achieving the Clean Air Act's natural visibility goals, or because SPS plans to retire the plant by 2040. But neither the "glidepath" nor SPS's unenforceable retirement plans are a safe harbor from installing reasonable, cost-effective controls.⁴⁹ Moreover, neither of those arguments provides an excuse from reducing emissions of nitrogen oxides to comply with the Clean Air Act's "good neighbor" provisions.⁵⁰ In any case, there can be no reasonable dispute that the retirement of one Harrington unit would avoid or mitigate the Clean Air Act compliance risks associated with burning gas at the plant, which could be significant.

IV. The short-term economic benefits do not outweigh the potential cost savings and long-term benefits of converting only two. [Preliminary Order Issues 9, 18]

If the Commission issues the CCN, SPS customers could be required to pay at least \$5 million more in increased electricity rates, and as much as \$55 million more, for the conversion of a power plant unit that, by SPS's own projections, will never operate.⁵¹ While SPS argues that any potential savings of retiring one unit would be offset by a \$39 million additional cost in the

⁴⁹ Tr. 136.

⁵⁰ 42 U.S.C. § 7410(a)(2)(i) (requiring states to ensure that sources do not contribute significantly or interfere with maintenance of the NAAQS in any other state); *see also* 87 Fed. Reg. 20,036 (Apr. 6, 2022) (proposing to conclude that Texas electric generating units contribute to ozone nonattainment in downwind states, and require coal and gas generators, including Harrington, to install and operate selective catalytic reduction technology by 2026).

⁵¹ SPS Ex. 7, Direct Testimony of Ben R. Else, Attach. BRE-1 (NPVRR Tables); *see also* SPS Initial Br. at 16 ("Using those favorable assumptions for alternatives, SPS's modeling did show that retiring one Harrington unit could potentially cost slightly less -- \$5 million (net present value ('NPV')) over the 20 year planning period . . .").

short-term period,⁵² retiring one Harrington unit would save customers money over the long term.

Under the Company's base case, "financial" load growth forecast, the retirement of Unit 1 saves customers \$5 million over the planning period; but under a high gas price forecast, the savings jump to \$28 million, and even reach as high as \$55 million with a different assumption for network upgrade costs.⁵³ Even under the Company's optimistic "planning" load growth forecast—one that predicts a significant increase of load despite the last 10 years of steady decreases—retirement saves \$24 million.⁵⁴

SPS's assumption of greater cost in the short term (2022-2024) is predicated on the assumption that retirement of one unit necessitates the immediate acceleration of shareholders' collection of that unit's remaining book balance and return on investment.⁵⁵ But as the Commission has recognized in similar cases, there is no unfairness in allowing shareholders to receive a *return of* their investment but disallow a *return on* investment after retirement to mitigate any rate increase.⁵⁶ Moreover, SPS shareholders have already benefited from more

⁵² SPS Initial Br. at 26.

⁵³ SPS Ex. 7, Direct Testimony of Ben R. Elsey at 32, 35, & Attach. BRE-1 at 1-4.

⁵⁴ SPS's "financial" load forecast represents the "median expectation for future energy and peak demand." SPS Ex. 14, Direct Testimony of John M. Goodenough at 7. The planning forecast assumes "energy sales of 8,279 GWh (31%) higher and peak demand that is 9 880 MW (20%) higher than the financial forecast in 2041." *Id.* at 14. This reflects a compound annual energy sales growth of 0.7% through 2041, even though average load has declined by 2.7% over the last 10 years. *Id.* at 8.

⁵⁵ SPS Ex. 7, Direct Testimony of Ben R. Elsey at 37 ("The high initial customer cost impact is largely driven by the accelerated depreciation expense and decommissioning costs . . .").

⁵⁶ See, e.g., Sierra Club Ex. 1, Direct Testimony of Devi Glick at 13; see also *Application of Southwestern Electric Power Company for Authority to Change Rates*, Docket No. 51415, Final Order at 12 (Jan. 14, 2022) (allowing utility to continue to recover a return on investment in the Dolet Hills power plant through the retirement date, but placing the plant balance into a regulatory asset after retirement, and allowing the return of investment without a return on investment through its original depreciation schedule), available at <http://interchange.puc.texas.gov/search/documents/?controlNumber=51415&itemNumber=705>; *Application of Southwestern Electric Power Company for Authority to Change Rates*, Docket No. 46449,

profits on their original investments due to the Company's previous extensions of Harrington's remaining useful life.⁵⁷ SPS's obligation to ensure just and reasonable rates should take priority over the profits of its shareholders.

V. Conclusion

As discussed in Sierra Club's Initial Brief, the Commission should reject SPS's proposal to convert all three Harrington units because the Company failed to meet its burden of demonstrating that the proposed conversion is necessary to provide reliable service, will be used and useful, or the most economical choice among the alternatives.⁵⁸ Instead, to the extent the Commission concludes it is in the public interest, the Commission should issue a limited CCN authorizing SPS to convert only two Harrington units.⁵⁹ In so doing, the Commission would protect customers from millions of dollars in potentially unnecessary capital and operational costs for a generation resource that will be used seldom, if at all while also keeping the option open for SPS to convert that unit should it be necessary to meet demand.

Alternatively, if the Commission issues a CCN for the conversion of all three Harrington units, the Commission should protect customers from unnecessary costs if SPS's optimistic capital and operational cost forecasts prove incorrect. In particular, the Commission should find and order that annual capital costs at Harrington in excess of \$3.75 million are presumptively unreasonable, and that Texas customers will not be required to pay for future costs associated with carbon or Clean Air Act regulation at Harrington. The Company, not its customers, should

Final Order at 20 (Mar. 19, 2018) (same conclusion for retired Welsh Unit 2 power plant), *available at* http://interchange.puc.texas.gov/Documents/46449_825_973078.PDF.

⁵⁷ *Id.* at 13.

⁵⁸ *See, e.g., PURA § 37.056; Cities for Fair Util. Rates v. Pub. Util. Comm'n of Texas*, 924 S.W.2d 933, 935 (Tex. 1996).

⁵⁹ *See In re Qwest Communications Intern.*, 42 P.3d at 1221.

bear the risk that SPS's predictions of future capital costs are wrong.

Dated: May 25, 2022

Respectfully submitted,

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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 May 25, 2022, by electronic mail, as permitted by the presiding officer.

/s/ Joshua Smith
Joshua Smith
Sierra Club Environmental Law Program