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**SOAH DOCKET NO. 473-22-1073
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APPLICATION OF SOUTHWESTERN PUBLIC SERVICE COMPANY TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO CONVERT HARRINGTON GENERATING STATION FROM COAL TO NATURAL GAS	§ § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**ALLIANCE OF XCEL MUNICIPALITIES’
EXCEPTIONS TO THE PROPOSAL FOR DECISION**

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**ALLIANCE OF XCEL MUNICIPALITIES’
EXCEPTIONS TO THE PROPOSAL FOR DECISION**

TO THE HONORABLE COMMISSION:

The Alliance of Xcel Municipalities’ (“AXM”) hereby submits its Exceptions to the Proposal for Decision (“PFD”) and in support thereof, shows as follows:

I. INTRODUCTION/SUMMARY

The Alliance of Xcel Municipalities thanks the Administrative Law Judges (“ALJs”) for their attention to the issues in this proceeding and for their thorough discussion of the issues the parties raised. As AXM stated in its Reply Post-Hearing Brief, AXM does not take lightly its recommendation to reject SPS’s proposed Harrington-to-Gas-Conversion project (“Harrington Conversion Project”). While AXM continues to believe that SPS’s ratepayers would be better served in the long run with more reliable Combustion Turbine Gas (“CTG”) units as a replacement for SPS’s coal powered generation at Harrington, AXM is limiting its exceptions to the ALJs’ decision not to recommend a cost cap on Southwestern Public Service Company’s (“SPS” or “Company”) expenditures to carry out its Harrington Conversion Project.

Given the economic benefits the Company has touted as the driving force for its Harrington Conversion Project versus replacement, a cost cap would provide ratepayers with crucial protection from cost overruns and ensure extra vigilance by SPS in performing the conversion.

Similarly, AXM excepts to the ALJs’ recommendation to reject the Office of Public Utility Counsel’s (“OPUC”) proposals to separately book the costs of the new natural-gas pipeline SPS will build to serve the Harrington units and recovered over a reasonable period commensurate with the life of such a pipeline and not limited to the current remaining lives of the Harrington Units;

and that the retirement of any Harrington assets be treated consistent with the Commission's orders in Docket No. 51415 and Docket No. 46449.¹

II. COST CAP FOR THE CONVERSION PROJECT

AXM and Commission Staff each proposed a cap of \$70 million on capital costs on SPS's Harrington Conversion Project.² The ALJs rejected AXM and Staff's recommendation. AXM excepts to the ALJs' rejection of AXM's and Commission Staff's proposed \$70 million cost cap on SPS's Harrington Conversion Project. The ALJs found that "a cost cap has not been shown to be warranted in this matter."³ Specifically, the ALJs found "that the timeliness of SPS's application, or alleged lack of diligence, is not relevant to whether a cost cap is needed or justified" and that the precedent established in Docket No. 33891 is inapplicable to the facts of this case."⁴ The ALJs' reasoning is in error.

A. Cost Cap is Amount SPS Claims Conversion Project Will Cost Ratepayers

The ALJs' conclusion that a cost cap has not been shown to be warranted in this matter is in error.⁵ The ALJs' specific reasoning that the "timeliness of SPS's application, or alleged lack of diligence, is not relevant to whether a cost cap is needed or justified"⁶ misconstrues the purpose of a cost cap.

The evidence in the record establishes that SPS projects the total cost of the Harrington Conversion Project to be \$65 to \$75 million dollars and touts the conversion of all three units at Harrington to be "the least-cost, most risk-averse and reliable compliance solution to meet the deadline for ceasing coal operations at Harrington in a cost-effective manner."⁷ At the core of the Company's contention that the Harrington Conversion Project is the best alternative is the

¹ Docket No. 51415, *Application of Southwestern Electric Power Company for Authority to Change Rates*, Petition and Statement of Intent to Change Rates at 12-13 (Oct. 14, 2020); Docket No. 46449, *Application of Southwestern Electric Power Company for Authority to Change Rates*, Order on Rehearing at FOF 68 (Mar. 19, 2018).

² AXM Exh. No. 1 – Norwood Dir. at 17.

³ PFD at 46.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ SPS Exh. No. 8 – Elsey Rebuttal at 7.

projected cost of converting the Harrington units from coal-burning to gas-burning units. AXM and Staff's proposed \$70 million cost-cap is the midpoint of SPS's estimated range of capital costs for the Harrington Conversion Project.⁸

AXM's witness, Mr. Scott Norwood testified that the better option would be to construct new CTGs instead of converting the aging Harrington coal units to burn gas. In briefs AXM likened SPS's selection as one of deciding to remodel a home, knowing that in a few short years the homeowner was going to raze the home and build a new one. The ALJs rejected AXM's recommendations and recommended approval of SPS's assessment of the benefits of its Harrington Conversion Project.

The record establishes that choosing SPS's Scenario 1, to retire and replace the Harrington units with new CTGs, would provide SPS's customers with generating resources with a service life up to three times that of the expected useful life of the converted Harrington units and would cost only 1% more on a net present value ("NPV") basis over the next 20-years.⁹ During the hearing on the merits ("HOM") SPS did not refute these facts. The record further establishes that electing to go with the Harrington Conversion Project, SPS will likely need to replace the converted Harrington units with CTGs in the next 8-15 years.

Further, while AXM does not contest SPS's projected need for capacity, AXM does take issue with the timing of SPS's application and failure to issue a binding Request for Proposal ("RFP") – a recommendation the ALJs rejected – so that the parties and the Commission could better evaluate the touted cost benefits of the Harrington Conversion Project. Additionally, the record evidence demonstrates that, to substantiate the cost benefits of going with conversion rather than replacement with new CTGs, SPS used its analysis for the retirement of its *Tolk generating station*, and not its Harrington station.¹⁰

In light of the lack of actual requests for proposals ("RFP") from interested vendors related to SPS's decision to undertake the Harrington Conversion Project, in conjunction with SPS's reliance of analysis for the retirement of its *Tolk generating station* and not one unique to the Harrington units, a cost cap of \$70 million, which is an amount well within SPS's cost estimates

⁸ AXM Exh. No. 1 – Norwood Dir. at 17.

⁹ AXM Reply Brief at 11.

¹⁰ See AXM Exh. Nos. 2, 4, 5, 11, 14, 18, and 19.

for its Harrington Conversion Project, provides ratepayers with protection against cost overruns and more fairly shares the risk of SPS's analysis missing the mark.

Therefore, AXM urges the Commission to reject the ALJs' recommendation not to impose a cost cap on SPS's Harrington Conversion Project and to impose such a cap on the cost to undertake the conversion.

B. The Reasoning Behind the Commission's Cost Cap In Docket No. 33891 Is Relevant and Applicable to This Proceeding.

The ALJs' assertion that the "precedent cited [from Docket No. 33891] by Staff is inapplicable to the facts of this case" is in error.¹¹ The very reason the Commission implemented a cost cap in Docket No. 33891 was to balance the risk for ratepayers arising out of the uncertainties identified in the parties' testimonies regarding the benefits of constructing a new generating plant, the Turk Plant.¹² Specifically, in Docket No. 33891, the Commission opined that the cost cap limited the financial risks to Texas ratepayers arising out of uncertainties such as increased material and labor costs because of delays.¹³

Here, the Company's proposed Harrington Conversion Project comes at a time when rampant inflation, supply-chain delays, and increased labor costs are placing greater economic pressures and uncertainties on businesses and consumers alike. In this very case, SPS touts that its proposed Harrington Conversion Project provides ratepayers with greater cost certainty over that of retiring and replacing Harrington with new CTGs or some other form of generation. Specifically, SPS asserted that replacing the capacity at Harrington with new CTGs could cost somewhere between \$500 million and \$1 billion,¹⁴ an amount highly questionable given the lack of an actual RFP for the Harrington Conversion Project and SPS's reliance on an analysis of its Tolk generating plant.¹⁵

Therefore, while the facts surrounding the Company's cost projections for its Harrington Conversion Project may not exactly mirror the facts presented in Docket No. 33891, the reasoning

¹¹ PFD at 46.

¹² Docket No. 33891, Final Order at 7.

¹³ *Id.*

¹⁴ SPS Initial Brief at 17; *see also* AXM Reply Brief at 10.

¹⁵ AXM Exh. No. 2 – SPS Response to AXM RFI No. 1-18.

underlying the cost cap the Commission approved in Docket No. 33891 remains the same in this proceeding – to ensure that ratepayers are not saddled with greater than expected construction costs. Such protection against the financial uncertainties associated with projected cost benefits, is especially crucial when SPS’s customers are being forced to accept the cost benefits of the Harrington Conversion Project without getting the time to properly analyze the cost-benefit analyses of the other options that would likely provide ratepayers with greater long-term reliability.

For these reasons, AXM urges the Commission to reject the ALJs’ recommendation not to impose a \$70 million cost cap on the Harrington Conversion Project.

III. DEPRECIATION OF RETIRED ASSETS AND THE PIPELINE

AXM and the OPUC have differing positions regarding whether the Commission should approve SPS’s Harrington Conversion Project. Nevertheless, if the Commission approves SPS’s application in this proceeding, AXM agrees with OPUC’s proposed condition that the depreciation and decommissioning costs for retired assets, and the depreciable “life” of the natural gas pipeline that will help facilitate the Harrington Conversion Project, should be treated consistent with the Commission’s precedent in Docket Nos. 51415 and 46449.¹⁶

A. Depreciation of Retired Assets

AXM excepts to the ALJs’ conclusion that the treatment of depreciation for retired assets at Harrington should be addressed in a future rate proceeding rather than in this proceeding.¹⁷ Specifically, in the event that SPS does not convert all three of its Harrington units and instead retires one or more units at Harrington, AXM urges the Commission to adopt OPUC’s proposed condition that would require SPS to book the remaining depreciation and decommissioning expense related to any unit retirements into a separate regulatory asset to be depreciated over the remaining useful life of the assets with SPS earning a return *of* but not *on* the assets.

While depreciation and service lives of retired assets are issues the Commission typically addresses in base rate cases, that alone does not prohibit the Commission from requiring SPS to agree to OPUC’s proposed condition now as an added protection for ratepayers. Therefore, AXM excepts to the ALJs’ conclusion that the treatment of depreciation for retired assets at Harrington

¹⁶ PFD at 42; *see also* OPUC Initial Brief at 17.

¹⁷ PFD at 42.

should be addressed in a future rate proceeding and not in this proceeding and urges the Commission to adopt OPUC's proposed condition for SPS's treatment of any retired assets in the event the Company does not convert all three units at Harrington.

B. Depreciation of the Natural Gas Pipeline

AXM excepts to the ALJs' conclusion that OPUC's proposed condition concerning the treatment of depreciation for SPS's proposed pipeline to Harrington as being a matter more appropriately addressed in a future rate proceeding. The ALJs' conclusion is in error. As with OPUC's proposed condition concerning the treatment of depreciation for retired assets at Harrington, AXM urges the Commission to adopt OPUC's proposed condition that the Commission require SPS to separately book the pipeline costs to a pipeline Federal Energy Regulatory Commission ("FERC") account as part of any order granting SPS's CCN amendment.

Here, SPS is proposing to build a pipeline with a useful life of 70 years¹⁸ to supply natural gas to the converted Harrington generating units that will have a useful life of 10-15 years.¹⁹ AXM agrees with OPUC that the Commission's precedent in Docket Nos. 51415 and 46449 require SPS to book the remaining undepreciated expense of the generation facility to a separate account from that of the proposed pipeline.²⁰

Crucially, the remaining service life of the generation facility is considerably shorter than the service life of the pipeline, and as OPUC witness Mr. Karl Nalepa explains in his direct testimony, the failure to depreciate the pipeline separately from generation will result in substantially higher rates for consumers.²¹

Moreover, AXM shares OPUC's concerns that if the remaining undepreciated expense of the generation facility is not separately booked from the proposed pipeline expense, then SPS may improperly include the pipeline costs in its generation plant accounts making it difficult if not impossible to distinguish and separate rates for the pipeline and plant in a future rate proceeding.²²

¹⁸ OPUC Exh. 1 – Nalepa Dir. at 22.

¹⁹ AXM Exh. No. 1 – Norwood Dir. at 8.

²⁰ OPUC Reply Brief at 2.

²¹ OPUC Exh. 1 – Nalepa Dir. at 23.

²² OPUC Reply Brief at 2.

For these reasons, AXM urges the Commission to reject the ALJs' recommendation and instead require SPS to agree to separately book the pipeline costs to a pipeline FERC account as part of any order granting the Company's CCN amendment.

IV. CONCLUSION

Based on the foregoing, AXM respectfully urges that the Commission to modify the ALJs' Proposal for Decision consistent with AXM's Exceptions.

Respectfully submitted,

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**ATTORNEYS FOR ALLIANCE OF XCEL
MUNICIPALITIES**

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of August 2022, a true and correct copy of the *Alliance of Xcel Municipalities' Exceptions to the Proposal for Decision* was served upon all parties of record via electronic mail, in accordance with the Order Suspending Rules, issued in Project No. 50664.

By: /s/ Leslie Lindsey

Leslie Lindsey