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<b>APPLICATION OF SOUTHWESTERN</b>	<b>§</b>	
<b>PUBLIC SERVICE COMPANY TO</b>	<b>§</b>	
<b>AMEND ITS CERTIFICATE OF</b>	<b>§</b>	<b>BEFORE THE</b>
<b>CONVENIENCE AND NECESSITY TO</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>CONVERT HARRINGTON</b>	<b>§</b>	<b>OF TEXAS</b>
<b>GENERATING STATION FROM COAL</b>	<b>§</b>	
<b>TO NATURAL GAS</b>	<b>§</b>	

**SOUTHWESTERN PUBLIC SERVICE COMPANY’S  
REPLY TO EXCEPTIONS TO THE PROPOSAL FOR DECISION**

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**SOUTHWESTERN PUBLIC SERVICE COMPANY’S**  
**REPLY TO EXCEPTIONS TO PROPOSAL FOR DECISION**

Southwestern Public Service Company (“SPS” or the “Company”) respectfully submits this Reply to Exceptions to the Proposal for Decision (“PFD”) issued on July 25, 2022.

**I. INTRODUCTION**

The PFD in this case is the result of a sound and thorough evaluation of the record evidence in the context of well-settled Public Utility Commission of Texas (“Commission”) precedent. The evidence, including the testimony of SPS, the Office of Public Utility Council (“OPUC”), Commission Staff, and the Independent Evaluator (“IE”), supports the full conversion of all three units at Harrington Generation Station (“Harrington”) from coal to natural-gas fired generation.<sup>1</sup>

In particular, the undisputed evidence demonstrates that only full conversion permits SPS to maintain its previously required 12% Southwest Power Pool reserve margin requirement<sup>2</sup> when coal-fired generation must cease on December 31, 2024. Only full conversion ensures that SPS can provide reliable power during the hottest summer days and coldest winter weather events, and permits SPS to maintain voltage support as renewable and different generation technologies are

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<sup>1</sup> See generally, SPS Reply Brief (May 25, 2022); SPS Initial Brief (May 11, 2022); Commission Staff Initial Brief (May 11, 2022).

<sup>2</sup> As Commissioner McAdams’ Memorandum of August 23, 2022 aptly points out, the Southwest Power Pool reserve margin requirement has increased to 15% during the pendency of this proceeding.

added to the Southwest Power Pool generation mix.<sup>3</sup> In short, conversion of Harrington maintains system reliability for SPS in the most efficient and cost-effective manner for the benefit of customers.

The PFD is also reflective of the fact that SPS presented the most credible evidence on each contested issue and that SPS's positions were, and are in all cases, consistent with Commission precedent. For instance, where the Alliance of Xcel Municipalities ("AXM") once took the position that SPS's request for conversion should be denied and that SPS should instead be required to replace Harrington with new combustion turbine gas ("CTG") units,<sup>4</sup> SPS demonstrated that: (1) replacement of Harrington with new gas units was analyzed by the Company and IE and found to be less cost-effective than conversion;<sup>5</sup> (2) new CTG units could cost anywhere between \$500 million and \$1 billion compared to the \$65 to \$75 million estimated cost of conversion;<sup>6</sup> (3) the building of a new gas pipeline to Harrington (which comprises the lion's share of the conversion cost) would still have to occur if new CTG units were installed at Harrington;<sup>7</sup> (4) there simply is not enough time to replace Harrington with new CTG units by December 31, 2024 because of a 4-5 year interconnection backlog at the Southwest Power Pool;<sup>8</sup>

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<sup>3</sup> Direct Testimony of William A. Grant, SPS Ex. 5 at 15:3-5, 15:9-12; Direct Testimony of Ben R. Elsey, SPS Ex. 7 at 8:14-16, 18:10-18, 33:14-34:13; Rebuttal Testimony of Ben R. Elsey, SPS Ex. 8 at 7:5-8.

<sup>4</sup> AXM Exceptions to the PFD at 2 (Aug. 18, 2022) ("AXM Exceptions").

<sup>5</sup> See Direct Testimony of D. Dean Koujak, SPS Ex. 10 at Att. DDK-1 and SPS Ex. 8 at 40:20-41:3.

<sup>6</sup> SPS Ex. 8 at 37:19-20 (Notably, while AXM calls these numbers are "highly speculative," public briefing filed by Entergy Texas, Inc. in the currently pending *Application of Entergy Texas Inc. to Amend its Certificate of Convenience and Necessity to Construct Orange County Advanced Power Station*, Docket No. 52487, Entergy Texas, Inc.'s Initial Brief at 3 (Jul. 18, 2022) notes that the updated cost estimate for a similar project in Entergy's service territory is now up to \$1.58 billion).

<sup>7</sup> Rebuttal Testimony of William A. Grant, SPS Ex. 6 at 7:11-16; Rebuttal Testimony of Mark Lytal, SPS Ex. 13 at 15:7-20.

<sup>8</sup> Rebuttal Testimony of D. Dean Koujak, SPS Ex. 11 at 15:22-16:2.

and (5) there is not a reliable or cost-effective way for SPS to “cover” for the loss of Harrington’s capacity if it is unable to have CTG units in place by December 31, 2024, thereby risking the loss of valuable interconnection rights at the facility in that scenario.<sup>9</sup>

Importantly, the evidence is also undisputed that no aspect of the conversion limits the location and addition of future additional generation at the Harrington site.<sup>10</sup> In fact, whereas the positions of AXM and the Sierra Club are at their core appear to be both driven by a desire to see a different type of generation cited at Harrington (AXM with new CTGs and the Sierra Club with new batteries, wind and solar), the evidence demonstrates that converting Harrington to natural gas fuel actually makes both types of generation desired by AXM and the Sierra Club more possible in the future—all at a lower cost today.<sup>11</sup> Further, while AXM essentially suggests that SPS should “throw in the towel” on the Harrington units due to their age and the fact that replacement of those units will be eventually needed in approximately 15 years,<sup>12</sup> the evidence is undisputed that the Harrington units have been well-maintained, are already built to operate using natural gas, are in good shape, can handle the demands of peaking units, and, as such, need not be decommissioned early in favor of new and more expensive generation now.<sup>13</sup> Customers simply do not have to incur those costs today, when conversion provides the most reliable and cost-effective fix.

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<sup>9</sup> SPS Ex. 13 at 8:21-9:2; *Id.* at 10:22-11:2.

<sup>10</sup> SPS Ex. 6 at 21:3-14; SPS Ex. 7 at 24:8-12.

<sup>11</sup> *Id.*

<sup>12</sup> AXM Exceptions at 4.

<sup>13</sup> SPS Ex. 6 at 13:10-15; SPS Ex. 13 at 7:6-13.

In similar fashion, the Administrative Law Judges (“ALJs”) found the cost cap position of AXM and depreciation positions of AXM and OPUC to not be credible or necessary because they are not consistent with Commission precedent.<sup>14</sup> This is not a rate case. This a certificate of convenience and necessity (“CCN”) case. For that reason, AXM can only point to *one* case out of hundreds of CCN proceedings where the Commission has imposed a cost cap on a CCN project, and the case relied upon by AXM presented the Commission with vastly different facts and circumstances—namely, a highly contentious coal plant expected to cost over \$1.5 billion that policymakers knew at the time might be the last coal plant ever constructed in the United States.<sup>15</sup> In contrast, while current inflationary pressures that are impacting virtually every cost for consumers and utilities *may* increase the ultimate cost of conversion, SPS’s conversion project remains relatively simple and straightforward and lacks the considerable uncertainty presented by the Turk Plant case. As such, both the reasonableness of costs associated with the conversion and the depreciation rates associated with the pipeline should be decided, consistent with settled Commission practice and precedent, in a future rate proceeding where evidence can be presented on both of those issues.

With respect to the Sierra Club’s exceptions, it comes as no surprise that the Sierra Club would oppose the continued use of any thermal generation that emits Carbon Dioxide (“CO<sub>2</sub>”) at the Harrington site. However, the misstatements and mischaracterizations of the record evidence in the Sierra Club’s exceptions are many and are rebutted below. In short, the ALJs rightly found, in the context of the Sierra Club’s witness removing all modeling analysis from her testimony on

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<sup>14</sup> PFD at 42, 44, 46 (Jul. 25, 2022).

<sup>15</sup> See *Application of Southwestern Electric Power Company for a Certificate of Convenience and Necessity Authorization for Coal Filled Plant in Arkansas*, Docket No. 33891, Final Order at 6-7 (Aug. 12, 2008) *superseded by* Order on Rehearing (Sept. 29, 2008).

the stand at hearing (because it was fatally flawed and incorrect),<sup>16</sup> that the Sierra Club’s positions were not credible in the context of the reliability risks they would create.<sup>17</sup> In fact, with the Sierra Club’s new recommendation that the Commission remand this case to SOAH for consideration of whether the federal “Inflation Reduction Act” would have implications on any Harrington analysis, the Sierra Club continues to disregard (1) the undisputed need for capacity at Harrington as of December 31, 2024,<sup>18</sup> and (2) that a peaking gas facility is currently needed to handle the additional renewable resources that have been added to SPS’s portfolio and in the Southwest Power Pool in recent years and may be added in the future.<sup>19</sup> Nothing in the “Inflation Reduction Act,” the potential benefits of which are still being evaluated by utilities across the country, changes these facts. SPS will continue to evaluate additional generation options at the Harrington site in the context of the new legislation and, if options can be identified that are prudent, reasonable, and if SPS can take advantage of any legislative or tax investment provisions for the benefit of customers, SPS will bring those options to the Commission for consideration at that time. Delay in this proceeding and on this project should not occur because the 1,050 MW of capacity at Harrington is needed now to maintain a reliable SPS system regardless of any new legislation.

In sum, the Commission and SPS have critical roles in ensuring customer reliability. Generating capacity is fundamental to that goal and time is of the essence on the Harrington

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<sup>16</sup> Tr. at 78:12-16 (Glick Direct) (Apr. 26, 2022).

<sup>17</sup> PFD at 39-41.

<sup>18</sup> PFD at 37 (“...the ALJs find that SPS demonstrated it will have a need for capacity when it ceases coal operations at Harrington at the end of 2024. The evidence showed that the additional capacity will be needed as soon as 2025 or 2026 depending on load growth”) citing SPS Ex. 8 at 11-12.

<sup>19</sup> SPS Ex. 7 at 24:8-12.



project. The evidence in this case shows that a full conversion of Harrington gives SPS the capacity it needs to reliably serve customers on the days when they need power the most. The responsible choice for customers and the public is to approve conversion of all three units, as recommended by the PFD, so that SPS can begin construction activities on the conversion as soon as possible and the units can be ready for the 2025 winter season. SPS respectfully requests that the Commission approve the PFD and its Proposed Order as written.

## **II. REPLY TO AXM’S SUGGESTED COST CAP (PO Issue 41)**

### **A. SPS demonstrated that it acted with due diligence in both the timing of its conversion request and assessment of the available options at Harrington.**

Frustrated that the ALJs failed to find AXM’s positions persuasive, AXM’s exceptions begin with criticisms of the process used by SPS to arrive at its conversion proposal.<sup>20</sup> Those criticisms, (which revolve primarily around the PFD’s rejection of AXM’s proposal to build a considerably more expensive and new CTG plant at the Harrington cite in lieu of conversion) in AXM’s opinion, should serve as the basis for the imposition of a cost cap on the Harrington project. However, the ALJs appropriately considered and dismissed AXM’s criticisms based on undisputed facts.

For instance, while AXM criticizes the timing of SPS’s application and the decision to use a Request for Information (“RFI”) rather than a Request for Proposals (“RFP”), the record is undisputed that SPS was required to bring the Commission a proposal in this case supported by evidence—not an exhaustive list of potential alternatives. The IE’s testimony was also undisputed that the RFI process brought *more, not less*, resource options to the table for consideration than an

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<sup>20</sup> AXM Exceptions at 3-5.

RFP would have.<sup>21</sup> To this end, the record reflects that SPS analyzed every possible scenario for replacing Harrington (including the replacement of Harrington with new gas-fired generation), that the process was supervised by an IE, and that same analysis has been presented for the Commission to consider.<sup>22</sup> The results of that analysis demonstrate that SPS should not build new generators at Harrington yet. It should simply change the primary fuel from coal to natural gas at Harrington, which is already capable of using natural gas as a fuel source.

Moreover, AXM does not dispute that since the Commission stepped away from the resource planning process at the advent of competition in Texas,<sup>23</sup> no formal process has been in place whereby SPS could seek the guidance of the Commission in advance of filing a case such as this. Thus, AXM's criticism regarding the timing of this filing unfairly overlooks the actual and historical regulatory approval process for filings such as this, the context for SPS's decision making, and the effort that SPS undertook to evaluate potential replacement options at Harrington. Specifically, the timeline and SPS's diligence in attempting to find a solution for Harrington did not include delay. It is undisputed that in 2019, under the Clean Air Act (a *federal statute*) the area around Harrington was highly likely to receive a "Nonattainment" designation due to Sulfur Dioxide ("SO<sub>2</sub>") emissions in the area where the facility is located due to exceedances of federal National Ambient Air Quality Standards ("NAAQS") and the Environmental Protection Agency ("EPA") would soon designate the area as Nonattainment absent a firm obligation to resolve the

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<sup>21</sup> See PFD at 39.

<sup>22</sup> SPS Ex. 7 at Att. BRE-1; SPS Ex. 10 at Att. DDK-1.

<sup>23</sup> *Adoption of Staggered Schedule for the Submission of Integrated Resource Plans Pursuant to P.U.C. Subst. R. 23.161(d)*, Project No. 19845, Order Relieving Utilities of Filing Preliminary Plans and Closing Project at 1 (Aug. 11, 1999) ("In light of the elimination of integrated resource planning requirements in Senate Bill 7, any utility required to file a preliminary resource plan (PIRP) in August 1999 and all subsequent months thereafter is relieved of the obligation to file a PIRP."); The Legislature amended the Public Utility Regulatory Act ("PURA") in 1999 to effectuate the transition to competition. See PURA § 39.001 *et. seq.*

air quality issue.<sup>24</sup> SPS negotiated an order (“Agreed Order”) with the Texas Commission on Environmental Quality (“TCEQ”) to comply with NAAQS requirements and avoid a “Nonattainment” designation and the myriad consequences of such a designation. This Agreed Order was then presented for public review and comment during an open TCEQ Commissioners meeting in October of 2020.<sup>25</sup>

The record evidence is also undisputed that SPS did not wait until 2021 to evaluate options at Harrington. With the news that a Nonattainment designation was increasingly likely, although not yet in place, SPS first modeled and conducted economic analysis surrounding the replacement options at Harrington in 2019.<sup>26</sup> In fact, the actual history surrounding SPS’s continuous, diligent effort to find the best solution to retain or replace Harrington demonstrates SPS’s good faith and timely action throughout this process.<sup>27</sup> The record is clear that despite considerable uncertainty over the past decade regarding environmental regulations due to court challenges and differences of opinion between the EPA, states and stakeholders,<sup>28</sup> SPS continued to be a good steward of its coal assets while it also added over 2,000 MW of new Commission-approved wind resources to its portfolio.<sup>29</sup> SPS has also been frequently before the Commission over the past decade in rate cases where stakeholders have been apprised in detail of SPS’s generation needs and issues, most recently exemplified by the parties agreeing to the early retirement of and accelerated depreciation

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<sup>24</sup> Direct Testimony of Jeffrey L. West, SPS Ex. 15 at 8:10-11:6.

<sup>25</sup> *Id.* at 15:2-3.

<sup>26</sup> SPS Ex. 7 at 23:17-20.

<sup>27</sup> SPS Ex. 15 at 8:20-10:6, 14:13-15:4; SPS Ex. 7 at 23:14-27:1; SPS Ex. 5 at 9:13-10:8.

<sup>28</sup> Rebuttal Testimony of Jeffrey L. West, SPS Ex. 16 at 6:7-7:15.

<sup>29</sup> *Application of Southwestern Public Service Company for Approval of Transactions with ESI Energy, LLC and Invenergy Wind Development North America LLC, to Amend a Certificate of Convenience and Necessity for Wind Generation Projects and Associated Facilities in Hale County, Texas and Roosevelt County, New Mexico, and for Related Approvals*, Docket No. 46936, Final Order (May 25, 2018).

on the coal assets at Harrington.<sup>30</sup> To second guess the timing of SPS's filing ignores this history and ignores the fact that SPS needed firm direction from the TCEQ before it was prudent to request conversion.

In the same manner, SPS demonstrated that a RFI, not a RFP, was the best vehicle for attracting bidders that could bring potential solutions to SPS's capacity needs and that the RFI clearly sought bidding for projects located at the Harrington site.<sup>31</sup> Specifically, the evidence shows that the RFI produced 18 different bids in a variety of geographic locations including projects proposing to interconnect at the Harrington site, with a variety of technologies (including new gas units, renewable energy and battery storage) and various pricing.<sup>32</sup> Likewise, the evidence, as addressed in SPS's Initial and Reply Briefs, shows that a binding RFP—due to its formality, costs to participate, and firm commitment required from bidders—would have actually *hindered* SPS's ability to obtain necessary information to fully analyze the Harrington conversion scenario.<sup>33</sup> The IE, Mr. Koujak, made clear multiple times during the hearing that an RFP would have limited the response from market participants, whereas the RFI *encouraged* a thorough response.<sup>34</sup> To get to the heart of AXM's concerns over binding bids, Mr. Koujak explained that an RFI is designed for the utility to get necessary information about resource options and pricing, while an RFP would trigger significant costs for developers to provide firm bids *without* producing

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<sup>30</sup> *Application of Southwestern Public Service Company for Authority to Change Rates*, Docket No. 51802, Unopposed Stipulation at 5 (Jan. 26, 2022).

<sup>31</sup> AXM Exceptions at 4 (Suggesting that SPS should have issued an RFP and that the RFI only sought projects in association with the retirement of SPS's Tolk generating station).

<sup>32</sup> AXM Initial Brief at 11-15 (May 11, 2022); SPS Ex. 11 at 13:13-14:21; SPS Ex. 10 at Att. DDK-1 at 7-8.

<sup>33</sup> SPS Initial Brief at 12-15.

<sup>34</sup> Tr. at 156:22-157:6, 158:11-14, 159:3-12 (Koujak Redirect) (Apr. 26, 2022); SPS Ex. 11 at 13:16-14:21.

“appreciably greater certainty around pricing.”<sup>35</sup> Contrary to AXM’s criticism, the evidence thoroughly shows an RFP would have frustrated the process of discovering available resource replacement options.

Unsatisfied by this evidence, AXM also continues to attack the content of the RFI and the integrity of the process while relying on conclusory statements to try to bolster its critique.<sup>36</sup> Contrary to AXM’s assertions, the evidence shows the RFI was directed at replacement options for Harrington because it included replacement of all of SPS’s coal-fired units, which necessarily includes all the capacity at Harrington.<sup>37</sup> Moreover, the fact that the RFI also referred to Tolk assets did not render it faulty for use in the Harrington analysis. The evidence is undisputed that both the Tolk and Harrington analyses were conducted simultaneously, the Tolk and Harrington facilities are approximately the same size, and the retirement dates being evaluated are only a year apart.<sup>38</sup> In addition, the timing of the need for the replacement resources was also plainly stated in the RFI.<sup>39</sup> The RFI says SPS would evaluate various capacity replacement dates, ranging from a minimum net capacity need of approximately 500 MW beginning summer 2023 to a maximum net capacity need of approximately 2,200 MW beginning summer 2025 to a scenario in which all of SPS’s coal-burning units are retired or replaced before 2030.<sup>40</sup> And, included the following detailed qualifications and assumptions:<sup>41</sup>

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<sup>35</sup> Tr. at 156:22-157:6, 158:11-14 (Koujak Redirect) (Apr. 26, 2022).

<sup>36</sup> AXM Exceptions at 4.

<sup>37</sup> SPS Ex. 10 at 7:19-8:3.

<sup>38</sup> SPS Ex. 7 at 39:3-8.

<sup>39</sup> AXM Initial Brief at 12.

<sup>40</sup> SPS’s Response to AXM’s First Request for Information, AXM Ex. 2 at 4. (Page citations to AXM exhibits refer to the bates stamp on the lower right corner of the page.)

<sup>41</sup> AXM Ex. 2 at 5.

- Expressions of interest should be from existing or proposed generating facilities within the SPS zone or delivered to the SPS zone from existing or proposed sites within the Southwest Power Pool territory.
- Expressions of interest should include a proposed commercial operation date (“COD”) if the submission is a future resource.
- Expressions of interest should include all capacity, energy, environmental attributes such as renewable energy credits, and other generation-related services.
- SPS is interested in the availability of capacity and associated energy resources for possible future-owned generation, Build-Own-Transfers, and Purchased Power Agreements (“PPA”).
- PPA durations should be 25 and 30 years.

SPS asked bidders to submit information necessary for SPS to model and evaluate the options including general information on the project and its location, contract options proposed, pricing, interconnection details and cost information, and performance and related technical specifications.<sup>42</sup> In the RFI, SPS also indicated it would analyze the project type, including technical characteristics; project site location for delivery within (or to) the SPS system; proposed COD for resource facilities responsive to this RFI; the impact a delay in the proposed COD would have on the pricing; pricing and quantity in megawatts; current interconnection status (if any) and anticipated extent of need for transmission system upgrades for the proposal; and the impact of available tax credits on proposed projects.<sup>43</sup>

In terms of process, SPS posted the RFI and related materials on its website and held a meeting during which bidders had the opportunity to ask SPS questions directly.<sup>44</sup> SPS also received questions from bidders via email, which it answered and then posted responses on the

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<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> AXM Ex. 2 at 6; SPS Ex. 10 at Att. DDK-1 at 6.

website.<sup>45</sup> While AXM expresses uncertainty around the content, timing, and usefulness of the information SPS received in response to the RFI, the evidence demonstrates that the RFI itself was clear and that bidders had multiple ways to communicate with SPS to obtain additional information, if necessary. These are just some of the reasons the IE was able to conclude that: (1) the design of the RFI was consistent with similar solicitations regarding its clarity and brevity; (2) SPS conducted the RFI process in a fair and complete fashion that aligned with the intent of the solicitation and overall process; and (3) SPS used a fair solicitation and evaluation process for the bids received.<sup>46</sup> The ALJs correctly recognized these facts when coming to their recommendations in the PFD.<sup>47</sup> SPS's criticisms of the RFI process and timing of SPS's filing are without merit.

**B. The ALJs' finding that a cost cap is unwarranted for the Harrington project is based on the evidentiary record and well-established Commission precedent.**

Unable to convince the ALJs to break from long-standing Commission precedent on the condition of a cost cap in a CCN proceeding, AXM now brings that request to the Commission through its continued reliance on findings issued *in a single* prior Commission case.<sup>48</sup> However, the PFD's findings and recommendation on the issue of a cost cap are on firm ground.<sup>49</sup> Specifically, AXM's cost cap position rests on a single Commission case with a specific set of circumstances—Docket No. 33891, the proceeding in which the Commission approved Southwestern Electric Power Company's ("SWEPCO") request to build the Turk Plant. Notably,

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<sup>45</sup> SPS Ex. 10 at Att. DDK-1 at 6.

<sup>46</sup> *Id.* at Att. DDK-1 at 5, 7, 16.

<sup>47</sup> PFD at 10-14 and 24-25.

<sup>48</sup> AXM Exceptions at 3-6.

<sup>49</sup> PFD at 46.

in Docket No. 33891, SWEPCO was asking the Commission to approve a \$1.522 billion coal plant located in Arkansas, not Texas.<sup>50</sup> To this end, the PFD recognizes that there are vast differences between the construction cost estimates for the Turk plant and the Harrington conversion project.<sup>51</sup>

Obviously, the Turk Plant was a capital project with capital costs orders of a magnitude much greater than the Harrington conversion, and, consequently, the risk to ratepayers of cost overruns with the Turk plant were much greater than any risk to ratepayers in this proceeding. More importantly, however, in Docket No. 33891 the Commission provided a detailed explanation for *why* a hard cost cap was appropriate for the Turk Plant. In that case, parties “presented substantial testimony quantifying the ultimate cost of SWEPCO’s self-build . . . [of the Turk Plant],” and the Commission concluded based on the competing evidence there were significant uncertainties surrounding the overall cost of the Turk Plant.<sup>52</sup> Moreover, those uncertainties called into question whether the Turk Plant was a reasonable solution to the identified future power needs as opposed to purchasing generation capacity.<sup>53</sup> Thus, given all of that identified uncertainty, if the estimated cost of constructing the Turk Plant had been more expensive, the Commission may not have approved SWEPCO’s request. So, for that explicit reason, the Commission held “it is appropriate to place certain limits on the costs that may be placed into base rates . . .”<sup>54</sup> No such

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<sup>50</sup> Docket No. 33891, Order on Rehearing (Sep. 29, 2008).

<sup>51</sup> PFD at 46.

<sup>52</sup> Docket No. 33891, Final Order at 6-7 (Aug. 12, 2008) (Noting: “The parties also presented substantial testimony quantifying the ultimate cost of SWEPCO’s self-build, ultra-supercritical, pulverized-coal-fired generation plant. The record reflects evidence regarding the portion of construction costs that are locked in by contract versus the remaining costs, the effect of potential delays in permitting and the widely various predictions on the potential for future carbon costs; either through legislation or mitigation and capture technologies. Thus, similar to the uncertainties involved in purchasing generation capacity to satisfy need, the Commission finds that the ultimate costs of building and operation generation is also uncertain.”).

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 7.



uncertainty has been identified in this Harrington conversion project. In short, the reasoning supporting the cost cap for the Turk Plant does not apply to this proceeding.

No party presented any evidence that SPS's construction cost estimates were unreliable or subject to special uncertainties based on available information. No party presented any evidence that SPS could construct generation resources sufficient to replace Harrington at a cheaper construction cost than conversion of the boilers to be powered by natural gas. Thus, the Commission's determination in this case—unlike the Turk Plant case—does not hinge on the precision of SPS's construction cost estimates. In fact, as the analysis of Commission precedent related to cost caps in CCN proceedings that SPS submitted with its Reply Brief demonstrates, such conditions are exceptional—perhaps unique to only the Turk Plant case in all of Commission history.<sup>55</sup>

The uniqueness of the Turk Plant case is explained simply—just because the Commission does not impose a “cost cap,” does not mean that SPS costs in converting Harrington and building the pipeline are unlimited. As always, the final cost to convert Harrington will be evaluated in a later base rate case. In that case, AXM will have the opportunity to challenge any unreasonable costs incurred in the conversion. Moreover, in a rate case, the Commission will have the benefit of actual facts to consider in evaluating whether a specific cost was reasonable or prudent. At this point in time, a cost cap would be speculative and, in effect, would function as a limitation on the Commission's ability to consider all relevant circumstances in a rate case. There are no special

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<sup>55</sup> See SPS Reply Brief 10-13 and Attachment B (In response to the cost cap proposal, SPS undertook an analysis of all CCN proceedings immediately following the Turk decision as well as all CCN proceedings heard by the Commission over the past two years. In none of those CCN proceedings—over 100 cases—did the Commission again impose a hard cap on construction costs. The list of cases examined by SPS was included with its Reply briefing at Attachment B).

circumstances in this CCN amendment proceeding that justify the Commission prematurely boxing itself into a corner on what can be recovered in a future base rate proceeding.

Finally, here, the primary driver of construction costs is the construction of the proposed pipeline.<sup>56</sup> Thus, just as in a transmission line case, as SPS constructs the pipeline across many miles, it may encounter specific situations that will increase (or decrease) construction costs. Indeed, Staff recommends that SPS coordinate with landowners to implement minor deviations in any approved route.<sup>57</sup> Given the realities of constructing large utility facilities, the Commission does not routinely impose costs caps in CCN amendment cases. For instance, most recently, in Docket No. 52656, the Commission did not set any cost caps in approving AEP Texas's requested transmission CCN amendment, which included a proposed transmission line with an estimated cost of approximately \$68 million.<sup>58</sup> That case is comparable, relevant precedent for the pipeline costs at issue in this case.<sup>59</sup> The \$1.522 billion Turk Plant is not; nor has the Turk Plant decision been applied as precedent for other projects. In sum, consistent with Commission precedent applicable to the facts in this case, and consistent with the standard scope of a CCN amendment case, the ALJs found that a cost cap is not warranted and should not be a condition of conversion.

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<sup>56</sup> Direct Testimony of Mark Lytal, SPS Ex. 12 at Attachment ML-1 (The cost of the pipeline is estimated to be approximately \$57 million of the \$75 million overall project.).

<sup>57</sup> Staff Initial Brief at 18.

<sup>58</sup> *Application of AEP Texas Inc. to Amend Its Certificate of Convenience and Necessity for the Angstrom to Naismith Double-Circuit 345-KV Transmission Line in San Patricio County*, Docket No. 52656, Final Order at Findings of Fact Nos. 178-180 (May 12, 2022).

<sup>59</sup> SPS Ex. 12 at Attachment ML-1.

### **III. REPLY TO OPUC’S AND AXM’S PROPOSED DEPRECIATION CONDITIONS (PO Issue 41)**

#### **A. The ALJs’ recommendation on the issue of depreciation of retired assets is based on sound Commission practice in CCN proceedings and rate cases.**

The ALJs correctly rejected a condition that OPUC originally proposed on the depreciation of retired assets at Harrington, in the event that the Commission orders SPS not to convert one or more units at the facility.<sup>60</sup> OPUC no longer appears to press its original recommendation,<sup>61</sup> however, AXM continues to argue OPUC’s position on this issue through its exceptions.<sup>62</sup> In short, the ALJs agreed with SPS and Staff that any issues related to the depreciation of retired assets at Harrington should be addressed in a future rate proceeding, not this CCN proceeding.<sup>63</sup> This is because depreciation rates are not set in a CCN proceeding and useful lives are not adjusted in a CCN proceeding. In fact, the OPUC witness on this issue admitted at hearing that depreciation rates are set in base rate cases and are typically supported by a depreciation study.<sup>64</sup> Here, no study exists and the parties have not created a robust record on proper depreciation rates or useful lives for the existing or converted units at Harrington. Thus, any Commission decision on depreciation rates at this point would be speculative, premature, and may limit the Commission ability to appropriately address this issue as necessary in a future ratemaking proceeding. Indeed, while AXM cites Docket Nos. 51415 and 46449 as support for its position, it neglects to recognize that those cases were *rate cases*—not CCN proceedings.<sup>65</sup> The ALJs’ recommendation is based on settled practice and precedent and should be approved.

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<sup>60</sup> PFD at 42 (The ALJs also correctly note that the condition is not necessary or implicated if full conversion is approved).

<sup>61</sup> See, OPUC Exceptions to PFD (Aug. 18, 2022) (“OPUC Exceptions”). The only exception raised by OPUC relates to depreciation of the natural gas pipeline.

**B. The ALJs correctly found that depreciation rates for the pipeline should be set in the context of a base rate proceeding, not this CCN case.**

In the same vein, the ALJs correctly determined that the setting of depreciation rates for the proposed pipeline to Harrington is appropriately addressed in a future base rate case, not this CCN case. Nevertheless, AXM and OPUC continue to argue that SPS should be required to book and depreciate the proposed pipeline in a separate account prior to a base rate proceeding taking place. Again, AXM and OPUC urge premature ratemaking arguments that cannot be supported by the record. Indeed, due to the lack of evidentiary support for OPUC’s original position, the ALJs correctly characterize their position as “conclusory.”<sup>66</sup> This is because, if the conversion of Harrington and construction of the associated pipeline is approved, SPS will be required to support cost recovery of any resulting assets (along with any correlated depreciation rates tied to those assets) in a future rate case. Parties will have the opportunity to suggest different lives, rates, and accounting treatment in that proceeding before any rate effects related to the construction are felt by ratepayers. Moreover, AXM and OPUC’s suggestion that the Commission’s established ratemaking procedures and Federal Energy Regulatory Commission accounting are not sufficient to establish just and compensatory rates in the context of a pipeline depreciation rate,<sup>67</sup> is simply untrue. If conversion is approved, Harrington will not be the first gas-fired generation plant in the country to have gas pipeline assets in rate base—it likely will not be the last. The Commission is

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<sup>62</sup> AXM Exceptions at 6.

<sup>63</sup> PFD at 42.

<sup>64</sup> Tr. at 95:10-24 (Nalepa Cross) (Apr. 26, 2022).

<sup>65</sup> *Application of Southwestern Electric Power Company for Authority to Change Rates*, Docket No. 51415, Final Order (Jan. 14, 2022); *Application of Southwestern Electric Power Company for Authority to Change Rates*, Docket No. 46449, Order on Rehearing (Mar. 19, 2018).

<sup>66</sup> PFD at 44.

<sup>67</sup> AXM Exceptions at 7; OPUC Exceptions at 2.

well-versed in setting depreciation rates in rate cases for all types of assets and AXM's and OPUC's suggestion that the Commission skip that ratemaking exercise here is not reasonable.

#### **IV. REPLY TO THE SIERRA CLUB'S EXCEPTIONS**

- A. No remand to consider the implications of the "Inflation Reduction Act" should be ordered because the evidence is undisputed that SPS needs the thermal capabilities that a converted Harrington will supply regardless of whether it may one day add additional renewable generation or batteries to its portfolio.**

As noted above, no part of the passing of the "Inflation Reduction Act" should encourage the Commission to delay or reconsider whether the conversion of Harrington should occur. No remand can change the undisputed need for capacity at Harrington as of December 31, 2024,<sup>68</sup> or that a peaking gas facility is currently needed at the site to handle the additional renewable resources that have been added to SPS's portfolio in recent years and may be added in the future.<sup>69</sup> Indeed, the likelihood of more aggressive renewables development resulting from the act makes Harrington's firm, dispatchable capacity even more necessary and essential for SPS to maintain a reliable system.<sup>70</sup>

The evidence demonstrates that time is of the essence and that retirement of Harrington without a replacement resource would immediately leave SPS customers without reliable service.<sup>71</sup> Likewise, the record is clear that conversion of Harrington defers the need for new firm

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<sup>68</sup> PFD at 37 ("...the ALJs find that SPS demonstrated it will have a need for capacity when it ceases coal operations at Harrington at the end of 2024. The evidence showed that the additional capacity will be needed as soon as 2025 or 2026 depending on load growth") citing SPS Ex. 8 at 11-12.

<sup>69</sup> SPS Ex. 7 at 24:8-12.

<sup>70</sup> Indeed, while the Sierra Club argues on page 9 of its exceptions that the analysis of prudence is an ongoing obligation, the Sierra Club provides no evidence to suggest that SPS's capacity needs have changed or that SPS can manage additional renewable resources without a converted Harrington. Put differently, the primary circumstances supporting Harrington's conversion have not changed. Thus, a remand to consider the potential impact of the "Inflation Reduction Act" is unnecessary.

<sup>71</sup> SPS Ex. 5 at 14:14-16.

and dispatchable replacements, thereby allowing the facility to serve as a bridge until new technologies and renewable resources can meet the generation and voltage support levels provided by Harrington.<sup>72</sup>

All a remand at this point would accomplish is further delay in the construction timeline, which given the construction activities that must take place between now and December 31, 2024, could create a risk that SPS will be unable to effectuate the conversion by that date. Conversion will require the buildout of a 20-inch natural gas pipeline that is approximately 20 miles long.<sup>73</sup> As noted in the Environmental Assessment, that pipeline will cross a water way and at least one road.<sup>74</sup> SPS will also have to acquire the right of way for the pipeline through negotiation with landowners or the use of eminent domain. Simply put, a lot of work must take place between now and December 31, 2024 for SPS's customers to be able to depend on a converted Harrington by that date.

Further, utilities across the country are still in the initial phases of evaluation on if and how provisions in the "Inflation Reduction Act" might be used to reduce future project costs. Those same utilities are in the process of determining how current supply chain constraints might impact the ability to use portions of the act on a timely basis. Put differently, regardless of whether the act may make it less costly to add batteries or renewable resources to a generation portfolio, the act cannot immediately make those resources—which are currently scarce—immediately available, and certainly not in the context of replacing a large reliability resource such as Harrington.

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<sup>72</sup> *Id.* at 14:16-19.

<sup>73</sup> SPS Ex. 12 at 19:10-11.

<sup>74</sup> Direct Testimony of Anastacia Santos, SPS Ex. 17, Attachment AS-2(V) at 13.

SPS will continue to evaluate additional generation options at the Harrington site in the context of the new legislation and, if options can be identified that are prudent, reasonable, and if SPS can take advantage of any legislative or tax investment provisions for the benefit of customers, it will bring those options to the Commission for consideration at that time. Delay in this proceeding and on this project should not occur because the 1,050 MW of capacity at Harrington is needed now and will be needed regardless of whether future project costs can be reduced through an advantage offered by the act.

**B. Conversion of all three Harrington units is necessary to meet system and customer reliability needs**

Having heard all the evidence, the ALJs properly concluded that retiring Unit 1 would pose reliability risks.<sup>75</sup> Nevertheless, the Sierra Club continues to allege that retiring at least one Harrington unit is the least-cost option because SPS's customers "do not actually need" the full capacity or energy provided by Harrington.<sup>76</sup> The evidence directly refutes Sierra Club's conclusory and incorrect assertion. SPS will continue to need the capacity and voltage support provided by the Harrington units well past the December 31, 2024 deadline for ceasing coal operations.<sup>77</sup> To this end, the evidence is uncontested that without conversion, to continue providing the transmission voltage support necessary for the system, SPS would need to enhance its voltage stability capabilities and add new firm and dispatchable replacement resources.<sup>78</sup> In fact, the evidence proves that if SPS is forced to operate its system without access to all three Harrington units or adequate replacement resources, SPS's system will be subject to serious

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<sup>75</sup> PFD at 40.

<sup>76</sup> Sierra Club Exceptions to PFD at 13 (Aug. 18, 2022) ("Sierra Club Exceptions").

<sup>77</sup> SPS Ex. 7 at 10:12-11:3.

<sup>78</sup> *Id.* at 28:12-15; SPS Ex. 5 at 13:15-20.

reliability risks at certain times, especially during severe weather events, depending on the availability of renewable generation and voltage demanded by the system.<sup>79</sup> Replacement resources, if they could be found, were also shown to likely be cost prohibitive.<sup>80</sup>

Regarding the extent to which the Harrington units will operate after conversion, how they will be used, and whether SPS could cover any needed generation shortfall through other means to address reliability needs, the following evidence directly refutes the Sierra Club's continued contentions in exceptions:

- Harrington Unit 1 will run after it is converted during times of peak demand.<sup>81</sup>
- Harrington can effectively serve as the peaking resource SPS needs because the units have been well maintained and, in the Southwest Power Pool day-ahead market, SPS will know within 24 hours of when the units are necessary for reliability or voltage support needs.<sup>82</sup> This means Harrington will be available and will be called upon.<sup>83</sup>
- The times when SPS will rely on Unit 1 to serve customers are when customers will need the power supplied by Harrington most—in the dead heat of summer or during a winter weather event.<sup>84</sup>
- Harrington is already successfully acting as a peaking unit during different times of the year, inclusive of providing substantial reactive power, voltage support and frequency support.<sup>85</sup>
- Using natural gas as the fuel source will allow the units to be even more responsive and flexible than current coal-fired operations because limitations related to coal operations will no longer apply, such that in an emergency the facility will be able to reach full operation in less than two hours.<sup>86</sup>

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<sup>79</sup> SPS Ex. 5 at 15:9-12; SPS Ex. 7 at 39:13-17.

<sup>80</sup> SPS Ex. 8 at 34:7-16, 40:7-42:13.

<sup>81</sup> Tr. at 120:23-121:3 (Grant Cross), 122:18-125:6 (Grant Redirect) (Apr. 26, 2022).

<sup>82</sup> SPS Ex. 6 at 22:6-9; SPS Ex. 13 at 7:6-13.

<sup>83</sup> Tr. at 122:18-125:6 (Grant Redirect) (Apr. 26, 2022); SPS Ex. 6 at 22:6-23:6.

<sup>84</sup> SPS Ex. 6 at 23:3-6; SPS Ex. 13 at 7:6-21.

<sup>85</sup> SPS Ex. 13 at 7:15-21.

<sup>86</sup> SPS Ex. 6 at 22:16-20; SPS Ex. 13 at 7:16-19.



- Delaying retirement of other existing, older gas units to try to meet capacity needs before Harrington is converted will cost up to \$35 million for only 515 MW through 2030, and, even if it were feasible, there is not enough existing gas capacity for which SPS could defer retirement and still meet its resource needs.<sup>87</sup>
- Buying short-term capacity is not guaranteed, and the capacity SPS would need to meet its required planning reserve margin would be approximately \$20 million *per year*.<sup>88</sup>

Finally, in excepting to the PFD’s recommendation supporting full conversion, the Sierra Club continues to rely on an outdated and irrelevant 2019 Transmission Planning study.<sup>89</sup> The study referenced by the Sierra Club related to a 345-kV project that assumed Harrington was retired.<sup>90</sup> The factual context of the study is, therefore, not applicable to this case and the Sierra Club’s selective quotations from the study itself do not shed light on the relevant facts the Commission should consider or the analysis SPS performed for this proceeding to assess replacement options for coal-fired generation at Harrington. In particular, the 2019 Transmission Planning study assumed there would be new generation “without the required transmission system upgrades needed for interconnection.”<sup>91</sup> Southwest Power Pool also studied the hypothetical generation project that was the subject of the study and estimated a cost of approximately \$190 million for the new transmission line, if Harrington were retired<sup>92</sup>—an amount that far exceeds the cost of conversion.<sup>93</sup> And that would not account for the construction costs of hypothetical new plant. Yet again, the Sierra Club’s exceptions ignore relevant facts and portions of the evidentiary

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<sup>87</sup> SPS Ex. 13 at 8:21-9:2.

<sup>88</sup> SPS Ex. 8 at 44:19-45:1.

<sup>89</sup> Sierra Club Exceptions at 14-15.

<sup>90</sup> SPS Ex. 6 at 20:18-19.

<sup>91</sup> Redacted Direct Testimony and Exhibits of Devi Glick, Sierra Club Ex. 1 at Att. DG-8 at 2.

<sup>92</sup> SPS Ex. 6 at 20:19-21:1.

<sup>93</sup> *Id.* at 21:1-2.

record that are contrary to their assertions. SPS witness William A. Grant testified as to the limitations of the 2019 Transmission Planning Study and its lack of relevance to the Commission's decision here.<sup>94</sup> The ALJs rightly found it to be irrelevant to the case at hand.

### **C. Converting all Harrington Units is the Cost-Effective Replacement Option**

The PFD cites ample record evidence in coming to the conclusion that SPS demonstrated the most feasible and cost-effective option for maintaining the capacity currently provided at Harrington is conversion of all three units.<sup>95</sup> The evidence is addressed throughout more than 30 pages of the PFD, a considerable portion of which focuses solely on cost issues.<sup>96</sup> Despite this analysis, the Sierra Club declares that the PFD's cost-effectiveness conclusion is not supported by any evidence in the record.<sup>97</sup> For support, the Sierra Club relies on the same arguments the ALJs already rejected, yet offers no new compelling reasons for the Commission to depart from the conclusions in the PFD.

For instance, the Sierra Club continues to take the position that the Commission should only approve SPS's request if the evidence shows that converting all three Harrington units is the least-cost or lowest cost option in purely monetary terms. However, the Sierra Club's "least cost" argument is directly contradicted by Texas case law. As the ALJs correctly noted when considering a CCN application under PURA § 37.056(c), "none of the statutory factors is intended to be absolute in the sense that any one shall prevail in all possible circumstances."<sup>98</sup> As such, the

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<sup>94</sup> *Id.* at 20:13-21:2.

<sup>95</sup> PFD at 37-41.

<sup>96</sup> *Id.* at 8-41.

<sup>97</sup> Sierra Club Exceptions at 15.

<sup>98</sup> PFD at 5, citing to *Pub. Util. Comm'n of Tex. v. Texland Elec. Co.*, 701 S.W.2d. 261, 267 (Tex. App.—Austin 1985, writ ref'd n.r.e.).

PFD includes a healthy discussion on the balancing of the relatively minor forecasted cost savings of retiring one unit against the considerable reliability, service, and operational benefits of converting all three units—which fall under the explicit factors in PURA § 37.056(c)(1), (c)(2), and (c)(3).<sup>99</sup> After their holistic evaluation, which is required under statute, the ALJs determined that conversion of all three units at Harrington is in the public interest and cost-effective.

The ALJs’ reasoning is supported by the record evidence, is consistent with PURA § 37.056, and should also be adopted by the Commission because a strictly “least-cost” option approach fails to take into account other relevant and necessary qualitative—as opposed to only quantitative—factors in the context of a Commission CCN proceeding. The Sierra Club’s “least-cost option” also leaves no room for a true cost-benefit analysis that considers factors beyond those that are purely economic in nature. Cost is a critically important issue that must be considered in the context of a CCN amendment request, but so are other real-world concerns—in particular the need to maintain reliable, dispatchable generation in the SPS system. In sum, the standard in this case is not “least cost”—it would be poor policy to adopt such as standard.

Regarding the cost of the options for replacing coal-fired generation at Harrington, SPS does not dispute that the conversion of two Harrington units is *potentially* less costly over the twenty-year period by \$5 million (Net Present Value (“NPV”)) than conversion of all three Harrington units.<sup>100</sup> In fact, the ALJs acknowledge this evidence in the PFD.<sup>101</sup> SPS does, however, take issue with Sierra Club’s selective recitation of the record evidence regarding cost.<sup>102</sup>

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<sup>99</sup> *Id.* at 37-41.

<sup>100</sup> SPS Ex. 8 at 34:9-12.

<sup>101</sup> PFD at 12-13, 39-40.

<sup>102</sup> Sierra Club Exceptions at 15-16.

First, the *potential* \$5 million (NPV) in lower costs is the result of using assumptions that were intentionally favorable for an early retirement of all three Harrington units.<sup>103</sup> What Sierra Club does not acknowledge is that those potential savings, would be more-than-offset by \$39 million (NPV) in *additional* costs between now and 2024.<sup>104</sup> The Sierra Club also speculates that the cost of converting only two units could be \$55 million less than full conversion, but it does not acknowledge that the \$55 million figure can only be arrived at by assuming unrealistically low network upgrade costs.<sup>105</sup> Given the duty to ensure continuous, adequate and reliable service, it makes sense that the ALJs would rely on the best option for customers based on realistic—not overly optimistic—circumstances and cost assumptions.

In addition, the Sierra Club’s exceptions conveniently do not address evidence showing that incremental cost to convert the third Harrington unit is *only \$2.6 million*, which is possible because the same size pipeline is required whether two or three units are converted.<sup>106</sup> By converting the third unit, SPS is able to maintain the 340 MW of capacity at Unit 1 for the incredibly low cost of \$7.65/kW.<sup>107</sup> To put that low cost in context, the cost of two new combustion turbines that provide approximately the same amount of firm and dispatchable capacity as the third Harrington unit (400 MW) would cost at least \$200 million or \$500/kW.<sup>108</sup>

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<sup>103</sup> SPS Ex. 8 at 34:9-12.

<sup>104</sup> *Id.* at 34:12-14.

<sup>105</sup> Sierra Club Exceptions at 5-6.

<sup>106</sup> SPS Ex. 12 at 11:12-13; SPS Ex. 8 at 9:6-9.

<sup>107</sup> SPS Ex. 8 at 10:12-13.

<sup>108</sup> *Id.* at 10:13-17.

This is evidence the ALJs specifically considered and found persuasive to support a recommendation that full conversion is the most cost-effective option.<sup>109</sup>

The Sierra Club's exceptions also selectively and misleadingly quote an assessment from the IE, Mr. Koujak, in which he described the option to convert two units and retire one as the "best" option based solely on a ranking of the economic modeling results.<sup>110</sup> Unlike Sierra Club's exceptions, however, the IE's analysis did not end with the selected quote—Mr. Koujak actually explained that the economic modeling results for converting all three units compared to only two units were so close that either option could be deemed a "prudent path forward."<sup>111</sup> In addition, the evidence shows that Mr. Koujak plainly stated in his report that "given the relative proximity of the results, the decision to convert the Harrington station partially or fully should carefully consider *other qualitative factors and optionality*" (emphasis added).<sup>112</sup> This is precisely what the ALJs have done in the PFD by considering critical capacity, reliability and feasibility issues in addition to cost considerations—such as the loss of interconnection rights and an inability to serve customers during extreme weather events that could occur if one unit is retired.<sup>113</sup>

Further, while the Sierra Club continues to dispute the validity of SPS's modeling results based on the assumptions SPS used for sustaining or future capital expenditures and environmental compliance costs<sup>114</sup> these arguments did not persuade the ALJs, nor should they persuade the

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<sup>109</sup> PFD at 33, 39-41.

<sup>110</sup> Sierra Club Exceptions at 16.

<sup>111</sup> SPS Ex. 10 at Att. DDK-1 at 15.

<sup>112</sup> *Id.*

<sup>113</sup> PFD at 40-41.

<sup>114</sup> Sierra Club Exceptions at 17-18.

Commission. The evidence shows Sierra Club’s assertions are unfounded for the following unchallenged reasons:

- SPS’s sustaining capital expenditures estimates are based on SPS’s experience with actual operations of plants that run similar to the way Harrington is expected to run following conversion.<sup>115</sup>
- SPS’s sustaining capital expenditure estimates are actual budgeted amounts that have been approved by SPS management—they are the real expectations of SPS.<sup>116</sup>
- Sierra Club witness Devi Glick’s alternative sustaining capital expenditures amount overstates sustaining capital expenditures due to a flawed straight-averaging approach to calculate the amount based on scaling-up costs for Harrington’s capacity and erroneously including costs for an outlier unit that significantly increases the straight average Ms. Glick relied on.<sup>117</sup>
- Regarding incremental reductions to ongoing capital expenditures, Ms. Glick incorrectly included the one-time cost of the new gas pipeline in her calculations of ongoing capital costs. After that issue is corrected, the calculations show that SPS reasonably assumed a 25% or 50% reduction in ongoing capital costs, respectively, when one or two units are retired.<sup>118</sup>
- Regarding a CO<sub>2</sub> cost, there is not currently a requirement for SPS to pay a cost adder for CO<sub>2</sub> emissions, nor is there any pending policy that would require such a cost.<sup>119</sup>
- Potential “Good Neighbor” compliance costs associated with a federal implementation plan are only proposed rules that may be changed after SPS and other industry groups participate in the rulemaking. Moreover, if the rule goes into effect without any changes, SPS would work to secure allowances through the Group 3 allowance trading program listed in the proposed rule.<sup>120</sup>

In sum, the PFD reflects a thorough analysis of the record evidence on cost and correctly concluded that “several factors weigh against” the issues Sierra Club raised “in favor of converting

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<sup>115</sup> SPS Ex. 13 at 12:5-7.

<sup>116</sup> *Id.* at 12:7-8.

<sup>117</sup> SPS Ex. 8 at 63:7-23.

<sup>118</sup> *Id.* at 67:10-19.

<sup>119</sup> *Id.* at 70:11-71:10.

<sup>120</sup> SPS Ex. 16 at 9:11-10:2.

all three units.”<sup>121</sup> The Sierra Club offers no new argument or evidence that should alter the ALJs’ recommendation.

**D. SPS Needs the full 1,050 MW of capacity at Harrington, including the 340 MW at Unit 1, to reliably serve customers and avoid the risks associated with attempting to obtain capacity in other ways.**

The Sierra Club’s brief exception addressing the capacity needs at Harrington merely skims the surface of this critical issue and rests upon assertions that are not accurate. The evidence demonstrates that SPS needs the 340 MW of capacity offered by Unit 1 and that retiring the unit is not a responsible decision. SPS likewise demonstrated that Unit 1 could not be mothballed and converted later—either feasibly or cost-effectively. Moreover, the evidence the Sierra Club relies on to argue SPS does not need all the capacity at Harrington was shown to be incorrect. As detailed below, under the financial load, if SPS was required to retire Unit 1, it would have capacity needs as early as 2025 or 2026<sup>122</sup>—not 2027 as the Sierra Club continues to assert.<sup>123</sup> Under cross examination, the Sierra Club’s only witness admitted during the hearing that her testimony suggesting a capacity need starting in 2027 was not accurate.<sup>124</sup> This occurred after Ms. Glick had already withdrawn ten pages of her testimony due to fundamentally flawed modeling analysis.<sup>125</sup>

In fact, SPS demonstrated that Ms. Glick relied on erroneous capacity data to support the Sierra Club position that SPS does not need the 340 MW of capacity from Unit 1.<sup>126</sup> SPS witness

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<sup>121</sup> PFD at 39-40.

<sup>122</sup> SPS Ex. 8 at 11:12-14.

<sup>123</sup> Sierra Club Exceptions at 6. The Sierra Club relied on this same faulty assertion in its Initial Brief even though SPS explained this error in Mr. Elsey’s rebuttal testimony and Ms. Glick admitted the error on the stand. SPS addressed this inaccuracy in its Reply Brief at 25. It is not clear why the Sierra Club is again emphasizing contentions that its own witness admitted were in error.

<sup>124</sup> Tr. at 111:21-112:7 (Glick Cross) (Apr. 26, 2022).

<sup>125</sup> Tr. at 78:9-16 (Glick Cross) (Apr. 26, 2022).

<sup>126</sup> SPS Ex. 8 at 12:1-9; Tr. at 108:10-18 (Glick Cross) (Apr. 26, 2022).

Ben Elsey demonstrated that Ms. Glick mistakenly identified SPS’s capacity positions in New Mexico—not Texas.<sup>127</sup> This mistake was material because SPS has fewer Commission-approved generating resources in Texas than it does in New Mexico, which means SPS needs the capacity of all three Harrington units more urgently in Texas than it does in New Mexico.<sup>128</sup> During the hearing, Ms. Glick confirmed the capacity data in her testimony showing a need for capacity starting in 2027 was not correct.<sup>129</sup> Once corrected, and as shown below, even Ms. Glick’s analysis shows SPS would have a capacity need as soon as 2025 or 2026, depending on load growth, to meet its planning reserve margin requirements and preserve system reliability if Unit 1 is retired:<sup>130</sup>

**Table 1**

<b>Capacity Position if Unit 1 is Retired</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>
Planning Forecast	(192)	(476)	(604)	(904)	(1,098)	(1,170)
Financial Forecast	180	(60)	(125)	(379)	(533)	(564)

The ALJs appropriately found that SPS has a capacity need as early as 2025.<sup>131</sup>

Additionally, while the Sierra Club urges the Commission to order retirement of one unit by the end of 2024, or mothball the unit for the time being, the Sierra Club would have the Commission ignore that:

- The capacity shortfalls in 2025 and 2026 are significant and would be challenging to replace.<sup>132</sup>

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<sup>127</sup> SPS Ex. 8 at 12:3-6.

<sup>128</sup> *Id.* at 12:6-7.

<sup>129</sup> Tr. at 108:15-20, 112:17-25 (Glick Cross) (Apr. 26, 2022).

<sup>130</sup> SPS Ex. 8 at 11:11-14, 12:7-9.

<sup>131</sup> PFD at 34.

<sup>132</sup> SPS Ex. 8 at 11:15-16.



- Southwest Power Pool’s interconnection process has a backlog of approximately five years for new generation, and it would interfere with SPS’s ability to obtain new generation by the time it is needed.<sup>133</sup>
- Interconnection costs are significant for new resources that do not have interconnection rights, which makes procuring new resources even more costly. SPS appropriately modeled three interconnection cost sensitivities, all of which are lower than the actual \$934/kW for interconnection costs that Southwest Power Pool is currently assigning to new resources.<sup>134</sup> Putting SPS in the position of needing capacity immediately after any unit is retired in 2024 means it could be forced to accept the cost of new resources, including those with high interconnection costs, due to a lack of options.
- To achieve commercial operation of new capacity by 2025 or 2026, SPS would likely have to restrict replacement generation to generators with existing interconnection agreements. That could negatively impact SPS’s customers because those projects could require a substantial cost premium that is not captured in SPS’s economic analysis.<sup>135</sup>
- The resource positions in Table 1 above reflect SPS’s accredited capacity needs, which refers to the Southwest Power Pool’s method for calculating actual megawatts of capacity qualified to measure SPS’s compliance with minimum reserve capacity requirements. In 2023, the Southwest Power Pool will implement a new method for accrediting capacity for renewable energy and battery energy storage that will negatively impact those resources because they will not count as much towards the capacity requirements.<sup>136</sup> This means SPS’s capacity needs will actually be greater than the modeled amounts.
- External factors such as COVID-19, high inflation, and import tariffs have exacerbated supply chain problems, and there have been instances where developers have withdrawn or delayed proposed projects,<sup>137</sup> which contributes to the risks SPS would face if it had to obtain replacement generation capacity if Unit 1 is retired.

Finally, despite the evidence showing a need for the capacity of Unit 1, the Sierra Club continues to characterize withholding approval for the conversion of Unit 1 as “the lowest-risk decision,” implying the unit could be mothballed and converted later if needed.<sup>138</sup> The evidence,

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<sup>133</sup> *Id.* at 14:14-15:3.

<sup>134</sup> *Id.* at 27:1-14. SPS modeled interconnection costs of \$200/kW, \$400/kW, and \$600/kW. *Id.* at 28:3-12.

<sup>135</sup> *Id.* at 15:14-21.

<sup>136</sup> SPS Ex. 8 at 57:14-58:2.

<sup>137</sup> *Id.* at 15:4-10.

<sup>138</sup> Sierra Club Exceptions at 18.

however, demonstrates that mothballing Unit 1 would not be a prudent path forward and *creates*—not diminishes—risks. Mothballing one unit would put SPS in a strained resource position and creates reliability risks that can be avoided by converting all three units, at very little incremental cost to customers.<sup>139</sup> In addition, SPS demonstrated that there are significant costs related to “mothballing” one unit, which would undisputedly leave SPS without needed capacity in 2026, puts at risk SPS’s existing interconnection rights for the full 1,050 MW at Harrington, and involves unnecessary and unjustified reliability risks given that the cost difference between converting only two or all three units at Harrington is only \$2.6 million.<sup>140</sup> For these reasons the ALJs correctly observed, “mothballing Unit 1 would mean that it is unable to immediately serve as a peaking unit and thus may be unavailable when SPS’s customers might need it most, such as during the summer heat or a winter weather event.”<sup>141</sup> Mothballing the unit is simply not a responsible or reasonable option.<sup>142</sup>

**E. The ALJs considered the qualitative benefits associated with retiring or not-retiring Harrington Unit 1 that were presented by the parties and made part of the evidentiary record.**

Finally, frustrated by the PFD’s sound reasoning, the Sierra Club now claims (for the first time in this proceeding) that the ALJs should have considered health benefits and environmental compliance risks on the issue of whether to retire Unit 1.<sup>143</sup> As an initial matter, the Sierra Club presented no evidence on health benefits—nothing at all. For this reason, the Sierra Club’s exceptions contain no citations to the record on any alleged health benefits associated with retiring

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<sup>139</sup> SPS Ex. 13 at 10:5-18; SPS Initial Brief at 22.

<sup>140</sup> SPS Ex. 6 at 20:4-12; SPS Ex. 13 at 15:7-20; SPS Ex. 8 at 5:22-6:3.

<sup>141</sup> PFD at 41.

<sup>142</sup> *Id.*

<sup>143</sup> Sierra Club Exceptions at 19.

Unit 1. SPS, however, presented undisputed evidence that the proposed conversion would, in fact, result in broad public health benefits—that SO<sub>2</sub> emissions would be reduced in excess of 90% and that carbon monoxide and CO<sub>2</sub> would also be significantly reduced.<sup>144</sup> And, the ALJs appropriately acknowledged this evidence on page 59 of the PFD.

In similar fashion, the ALJs also clearly considered potential environmental compliance “risks” cited by the Sierra Club—the risks claimed by the Sierra Club are referenced on page 29 of the PFD, as is a short summary of SPS’s response on page 37. In reality, SPS presented substantial evidence demonstrating that the Sierra Club’s environmental compliance risk concerns were highly speculative in nature. Regarding a potential future CO<sub>2</sub> cost, the evidence is undisputed that there is not currently a requirement for SPS to pay a cost adder for CO<sub>2</sub> emissions, nor is there any pending policy that would require such a cost.<sup>145</sup> Similarly, regarding potential “Good Neighbor” compliance costs associated with a federal implementation plan, SPS’s testimony was also unchallenged that only proposed rules exist today—proposed rules that may be changed after SPS and other industry groups participate in the rulemaking.<sup>146</sup> Moreover, if the proposed rule goes into effect without any changes, SPS would work to secure allowances through the Group 3 allowance trading program listed in the proposed rule to ensure this reliability resource remains available to support SPS customers.<sup>147</sup>

In sum, the record is clear that that ALJs considered both health benefit and environmental compliance cost evidence that was submitted by the parties. With respect to health benefits, the

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<sup>144</sup> SPS Ex. 15 at 16:5-14.

<sup>145</sup> SPS Ex. 8 at 70:11-71:10.

<sup>146</sup> SPS Ex. 16 at 9:11-10:2.

<sup>147</sup> *Id.*

ALJs cannot have erred in the context of the Sierra Club having presented no evidence on the subject. And, with respect to environmental compliance costs, for good reason, they simply found the Sierra Club's arguments unpersuasive and speculative. The PFD is not in error and should be approved as written.

## **V. RESPONSIVE TESTIMONY**

Consistent with the instructions in Commissioner McAdams' memorandum of August 23, 2022, SPS is currently working on testimony responsive to his recognition of the fact that the Southwest Power Pool has increased its reserve margin from 12% to 15%. SPS expects that testimony will be informative for the Commissioners and will further demonstrate the prudence of converting Harrington. However, additional capacity needs on SPS's system do not change the undisputed need, as clearly demonstrated in the record as it stands, for capacity at Harrington as of December 31, 2024,<sup>148</sup> or that a peaking gas facility is currently needed at the Harrington site to manage the impact of renewable resources on SPS's system and to provide necessary voltage support.<sup>149</sup> As such, SPS respectfully submits that the current evidentiary record continues to fully support conversion.

## **VI. CONCLUSION AND REQUESTED RELIEF**

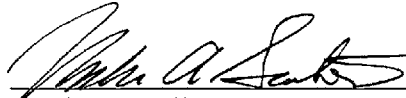
The evidence presented at hearing fully supports SPS's request to amend its CCN so that SPS can convert all three units at Harrington from coal generation to natural gas generation. SPS respectfully requests that the Commission adopt the PFD in full.

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<sup>148</sup> PFD at 37 ("...the ALJs find that SPS demonstrated it will have a need for capacity when it ceases coal operations at Harrington at the end of 2024. The evidence showed that the additional capacity will be needed as soon as 2025 or 2026 depending on load growth") citing SPS Ex. 8 at 11-12.

<sup>149</sup> SPS Ex. 7 at 24:8-12.

Respectfully Submitted,



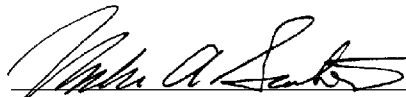
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**CERTIFICATE OF SERVICE**

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 August 30, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.



Mark A. Santos